





E. S. Merrifield sculpsit.

*'This, of course, you know,' observed Jawleyford.
'No, I don't,' replied Sponge.'*

"Mr. Sponge's Sporting Tour," ch. xix.

AS I WENT ON MY WAY

BY
ARTHUR J. ASHTON

ONE OF HIS MAJESTY'S COUNSEL,
A BENCHER OF THE INNER TEMPLE,
JUDGE OF APPEAL IN THE ISLE OF MAN,
RECORDER OF MANCHESTER.

"So when a child, as playful children use,
Has burnt to tinder a stale last year's news,
The flame extinct he views the roving fire,
There goes my lady, and there goes the squire,
There goes the parson, oh! illustrious spark,
And there, scarce less illustrious, goes the clerk."

Cowper.



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DEDICATIONS

To
SIR RICHARD LODGE,
MY FIRST COLLEGE FRIEND,
IN THE JUBILEE YEAR OF OUR FRIENDSHIP,

AND/OR

AMICIS QUIBUSDAM,
QUI, NESCIO QUA SPE FRETI,
HÆC QUALIACUNQUE,
φεινᾶντα συνέτοισι, QUOD AIUNT GRAII GRAIUSQUE,
COLLIGI SCRIBI EDI VOLUERUNT,
NEC GRATUS NEC INGRATUS,
INCERTUS CERTÉ,
D.D.
MODO NON RUDE DONATUS,



INTER FAMILIARES, A. J.
HIC ET UBIQUE, A. J. A.
IN INSULÂ CUI } A. J. A.,
NOMEN MONA. } J. A.

CHAPTER	PAGE
XV. IN SILK	212
XVI. GERMANY AGAIN	224
XVII. MORE SILK	237
XVIII. SOME REFLECTIONS AND ONE OR TWO MORALS .	247
INDEX	265

• ILLUSTRATIONS

A. J. ASHTON	<i>Frontispiece</i>
AN OLD HOUSE AT HILDESHEIM.	35
A LOCKWOOD DRAWING	100
THE ITALIAN GENDARME	191
<i>Drawn in Court by Sir Frank Lockwood.</i>	
CHARTRES CATHEDRAL—THE AMBULATORY	202
BEAUVAIS CATHEDRAL	214
SCHLOSS BEICHLINGEN, IN THÜRINGEN, THE SEAT OF THE WERTHEN FAMILY	226
•	
“OW! MR. COPPER”	250
<i>Specially drawn by G. L. Stampa.</i>	

AS I WENT ON MY WAY

CHAPTER I

WARRINGTON

I WAS born at Warrington, in Lancashire, where at later dates have also been born the best jockey and the best wicket-keeper at present practising in England.

The town of Warrington has as its river the Mersey, which here forms the boundary between Lancashire and Cheshire. When you have crossed Warrington bridge you are in Cheshire, and Warrington was the market town on Saturday for a large number of Cheshire farmers who drove in from their large rich farms. Warrington must always have had some little importance, for the bridge was until within living memory the only—or at any rate the lowest—bridge on the river between Manchester and Liverpool, and the north road through Preston to Carlisle crossed this bridge. One of the six brothers in “Rob Roy” was killed fighting at Warrington bridge. The old bridge was a fine solid structure with several arches of good span, and was only replaced in recent years because it was too narrow for modern requirements. The time had long gone by, even in my boyhood, when Warrington apprentices were protected by their indentures from eating salmon more than three times a week, but the fine weir was still there, crossing the river at a bend above the bridge.

Warrington in those days had a population of about twenty thousand people. We passed that figure at a census taken when I was at school, and were rather pleased with ourselves for doing it. Like many other smaller towns of Lancashire, it had a character of its own. Edwin Waugh, the Lancashire poet, speaks of the little towns in the east of the county in which

“A man can sit in the market-place
And see the meadows mown.”

You could not quite do this in the Warrington market-place, but in ten minutes you could be in the sweet Cheshire country, walking to a well-wooded hill two miles away and its birds and butterflies, or to one of the many farms where they would give a boy a drink of milk if they knew him, and perhaps let him go into the cow-sheds where forty or fifty superlative cows were stalled, with their names and achievements painted at the head of the stall. Much of the best Cheshire cheese was made in that part of the county, and the dairies of the great farms were delightful, large cool and dark, with the huge cheeses on stone shelves wrapped in cloths and oozing in every stage of advance. My father was the manager of one of the banks and had a wide connection among the Cheshire farmers, who would sometimes bring with the money they were depositing flowers or eggs, or a pound of butter for my mother, or even at Christmas a cheese. Many were the times when I went back to the farm for Sunday, sitting with the purchases at the back of the trap. I once spent a month at a farmer's house when there was scarlet fever at home. In these matters no cash passed. The expense would be nothing accounted of in the days of those great and generous Cheshire farmers.

On one occasion, when very young, I went for the week-end to the manor house of a squire and land-owner. On Sunday we went to church under charming circumstances. The squire's pew proved to be a square enclosure lined with green cloth, with a table in the centre and seats round the side. When we stood up, only a full-grown person could be seen over the top. In one corner was a fire-place, and over it a small cupboard. As it was winter there was a fire in the fire-place, and when the rector gave out his text the squire rose, poked the fire, opened the cupboard, took out a glass, and then a bottle of golden wine, poured out a glassful of the elixir, drank it, sat down again, and went to sleep. To the boy it seemed that that man must be very happy who could sit in his own green pew, poke the fire during the service, drink yellow wine and sleep in church, without being interfered with by a governess. Many fully-grown persons may still share this childish view. The abolition of high pews was a piece of Pussyfoot procedure.

- At a somewhat later date I was allowed to attend a service at the old Unitarian chapel, whose grave-yard adjoined our garden. The minister's house was annexed to the chapel, and I was often in and out with the minister's son. The service was not without incident. During the sermon two or three pieces of plaster fell into the pew in front of us from the large ceiling above. The occupants of the pew, and quickly occupants of many other pews, looked up to see first an elastic-sided boot and then a well-shaped leg in a long green stocking, come after the plaster. The leg was being violently shaken. The preacher, seeing every one looking at the ceiling, stopped his discourse and looked up himself. The leg, having come through as far as the knee,

stopped, and we could think with relief that its proprietor was sitting upon some rafters. After a short pause the leg silently withdrew from the silent congregation. It belonged to the minister's cook, who had wandered into the loft from the minister's house and stepped between the beams.

In the town itself there was much to notice and remember. The rector of the rich living had been recently inspired to get erected at the parish church the tallest spire in the county. It dwarfs the fine church (which looks ridiculous), but is in itself a beautiful thing. The Unitarians had had there an academy, of which Mrs. Barbauld's father had been the head, and among their members were many who kept up an intellectual and religious tradition. The head office of Parr's Bank was in the town, supported by a few local branches, under the managing directorship of the future Lord Cross ; for the financial genius, Mr. Dunn, had not appeared, who to England gave up what was meant for Warrington and district, and made Parr's Bank a national and not a parochial institution. We had, of course, a cotton-mill and wire-iron works. But we also boasted two specialities. We boasted that Stubbs' files and Long's leather were the best of their kind in the world. In those days the hides lay in the pits with the oak-bark for as long as two years. In the present day white leather is made with chemical reagents in about three months. The head of Long's firm, to the day of his death, made a brand of Long's leather which he sold under its own mark at its own price. It was used for the great bands which in the mills couple up the wheels which transmit the power from the power-house to the factory. This gentleman did this because his father before him had liked the

brand. That was like Lancashire. The chief lawyer in the town was an antiquarian of more than local reputation. Another lawyer, who took no litigious practice and acted chiefly for county people, had written the longest poem in the English language, "Alfred," in forty-eight books. It was reported of him, with respect, that he drew his own deeds: that is, did not go to counsel to have them drawn. This phrase greatly puzzled me as a boy, to whom deeds were "deeds, not words." Incidentally he played the violin with skill, and knew many tricks of fancy swimming. One of the ironmasters was greatly interested in scientific matters, and would often in the winter lecture with a lantern and fine slides, things not then very common. The man who kept the music shop was full of Lancashire enterprise. In those days the great singers went on tour to the large towns of the kingdom with companies of lesser stars, perhaps six or eight in all. It occurred to our music man that between Manchester and Liverpool these parties might look in at Warrington. In the result, before I was fifteen, I had heard Tietjens, Trebelli, Patey, Sims Reeves and Santley. A singer of another kind, a nightingale, appeared one summer in a beautiful wood near Warrington. It is very rarely that the nightingale gets so far north, and the Lancashire papers made the most of it. So did the Lancashire lovers of music. Every sort of excursion was organised from far away; after the first week a special train ran late to Liverpool and to Manchester, stopping at every station. The roads to the wood in which the bird sang were held by volunteer officials. After passing them, no one was allowed to speak. The moon on the night when I went out rose about ten o'clock. About half-past ten the

nightingale, so to speak, cleared his throat, and a low murmur passed through the crowd. After this he sang for about an hour, with short intervals. It was strange to see two or three thousand people seated on the ground in circles in the half-light, silent and motionless so long as the song was to be heard. On some nights there was no concert. When this happened the audience left quite patiently, and probably came another night. The gamble added to the pleasure. The great majority of the hearers would be working-men with their wives and children, and many of them walked miles to and from their concert. This nightingale stayed for about three weeks. I doubt whether he has yet had a successor.

At the School of Art in Warrington the teacher had a genius for teaching ; in a very short time he produced Sir Luke Fildes, R.A., Mr. Harry Woods, R.A., and a man called, I think, Green, a landscape painter of great promise, who died too soon. The illustrations to an article in the *Studio* a few years ago indicate that this artist must have had a fine sense of colour. The postmaster of the town had learnt Greek in middle life, and spent his leisure time among the Gospels. Having a genius for impossible theories, he had persuaded himself that the four Gospels were variants from an original Gospel which he (the postmaster of Warrington) could by care and attention reproduce. To this modest task he devoted some years of his leisure. When I was about fifteen he began to consult me about difficulties, probably because he knew no one else who would attend to him. I think we knew about the same amount of Greek—" *C'est à dire*," as Voltaire says of philosophy, "*fort peu de chose* "—but I had the sounder judgment. If I had asked him how he explained the

long passages in St. John, which were not found in the other Gospels, he would have replied with confidence that this was the easiest part of his task, because these chapters did not appear in the archetype which had reached the hands of the other three Evangelists. He and his wife lived two or three miles out of Warrington, and I was once allowed to spend my Christmas holidays at his house. He was kindness itself, and kept many animals on which he lavished endless care, I believe because his only son (who was dead) was fond of live things. His wife was a cousin of Mrs. Gaskell, the novelist, and herself a bright and brilliant lady. In the evenings she taught me cribbage and picquet, while the husband worked at a great table, oblivious of our pleasures and my happiness. Not that he did not play cards. We generally finished the evening with dummy whist, in which he always played the dummy ; this in order to work out schemes of special subtlety, which his wife's masterly play would pulverise at once. Late in life he fell under the influence of Harris, the American prophet, (who about the same time dominated Lawrence Oliphant, the novelist), went to America and was lost to his friends. This was after the death of his wife ; if she had lived, there would have been no Harris. The vagaries of this good man may provoke a smile, but he had the root of the matter in him, and he lived up to his lights. Having detected an abuse in the town, he attacked the wrong-doer in the Liberal paper with the force of a Hebrew prophet, and in his own name. In the action for libel which followed, Mr. Russell, K.C., the future Chief Justice, appeared for him and must have told him in plain terms that he had been most unwise. By this time I was grown up, and my friend's only complaint to me

was that his counsel could not see that it was imperative for him to do what he did. No question of the damages and costs entered his mind, though he had paid them all, and was not a rich man—"of such is the salt of the earth."

The newspapers in the town were weekly or perhaps bi-weekly. The editor (and proprietor) of the Conservative paper was tall and melancholy, a sadder edition of Mr. Pott at Eatanswill. His name, Poland, fitted him. He had two sons, Nathaniel Bliss and Thomas Ogilvy, so called after two eminent divines, whose work I have not yet come across. When they first arrived at school they wore black blouses with black belts and large turn-down collars tied with a string. That two brothers with such names and such clothes should be made to fight was in the order of things, and when "Tom Gog" the younger had defeated "Natty Bliss" the elder (for thus we traduced the theologians), they went home much the worse for wear. The patriot editor came to the school to complain, but he "took nothing." Our master was from Rugby, and had the Arnold tradition. Of him it might be said, as was said of the High Master of Manchester Grammar School: "He said to the boys 'come,' and they came, and to the parents 'go,' and they went." The editor had his own troubles. On the promotion of a Lancashire clergyman he spoke of him as the Bishop Elect of "Soda and Man." This was a gift to the Liberal editor, a short, stout, vigorous person, with a red face and large whiskers, who looked like a grocer. The Bishop rapidly became the "Bishop of Brandy and Soda," "The Bishop of Half-and-Half," and so forth. Such were our standards of humour. At one of the Cheshire rectories was a poet who had won the

WARRINGTON

Seatonian Prize at Cambridge with a poem on the admirable subject "St. Paul at Athens." At another was the Archdeacon, a leading bee-master, but stout. A meeting of his clergy found him in his garden covered to the waist with bees which were swarming. These he took off by handfuls and placed in the hive before him.* His task being done, "Now pump on me," said the Archdeacon; and the assembled clergy pumped on him as Jenny pumped upon Lavengro, and the young gentlemen attached to the stables pumped upon Sam Weller.

The grammar school to which boys went from eight to seventeen years of age was an Edward VI. foundation, revived in the 'sixties of last century, when education was much in the air. The master who came, as I said, from Rugby, introduced into this Lancashire town a strictly classical education, tempered with High Church doctrine. Under his guidance we regularly attended the Parish Church on Ash Wednesdays, and pronounced the Communion Service in company of about two hundred girls from a clergy school and some four or five adults. It seemed strange to curse the man who removed his neighbour's landmark in a Lancashire town where the offence had probably never been committed. However, we found it very good fun to curse him, like Charles Lamb, "at a venture," and also others whose offences were more intelligible but less picturesque. The headmaster ploughed his lonely furrow with devotion, and the number of boys at one time nearly reached a hundred. But the attempt was a *tour de force*, and when he left the scheme was necessarily changed. The classics were wasted, for instance, on a boy who, being asked on arrival what his father did, said he sold "booter," and

being asked how he sold it, said he sold it in "toobs." We did better at games than at classics, and had for a time a genuine school hero in Charles Hutchins. This schoolfellow must have had a turn for any ball game, for he won the amateur golf championship when he was over fifty, and was once told by John Roberts that he had a finer pull-back stroke at billiards than any other amateur who had come under Roberts' notice. I doubt whether he can ever have had a happier moment in his life than when as our cricket captain—he afterwards played county cricket—in our great match against the "Warrington Gentlemen" he hit their fast bowler to long leg—George Parr's stroke—over the trees and into the adjoining road beyond the wall.

At this school my time was passing pleasantly, when one day there appeared an assistant commissioner under the celebrated Commission on Middle Class Education. This gentleman examined us, and must have said something about the lack of competition in so small a school; for shortly afterwards I was taken away and sent to Manchester Grammar School, then the Mecca of Lancashire middle-class education.

The examiner was the future Lord Bryce. I met him at dinner two or three months before his death and ventured to tell him the story. He remembered the headmaster and his type of character, and asked what had become of him. This was after an interval of over fifty years. "*Salve, magna parens*," said Dr. Johnson in his dictionary to little Lichfield, his birth-place, and being an ex-prior of the Johnson Club I may, perhaps, venture to say the same to wider Warrington.

CHAPTER II

A GREAT HEADMASTER

THE loadstone which drew boys to Manchester from all Lancashire was the High Master, Mr. F. W. Walker, afterwards the Headmaster of St. Paul's School. The High Mastership of Manchester Grammar School was in the gift of Corpus Christi College, Oxford. When Mr. Walker was a junior fellow of that college a vacancy occurred, and he consented to take the appointment. At that time the school was in decay, and even the number of one hundred and fifty free boys was not filled up. Three or four years later Mr. Gladstone said at a dinner-table that there were two schoolmasters in England, Bradley and Walker. The headmaster of Marlborough was an obvious choice, but Walker had to be identified as a young man in charge of a day school in Manchester. When I joined this school the numbers were over a thousand ; this was in the tenth year of Walker's reign. Some years after his appointment a professor and politician of some notoriety at Oxford, dining at Corpus, spoke in high praise of the trustees as men of discrimination who, on the occasion of the vacancy, had made great but unsuccessful efforts to persuade him to fill it. " I have no doubt," said the President quietly, " that I should have paid much heed to anything the trustees said ; but I do not remember their making any suggestion to me." The professor had forgotten that the post was in the President's own gift. No doubt

at this juncture, like M. de Florac, he "attended himself to a *soufflet*."

The problem which this remarkable headmaster dealt with was a day-school for boys on a large scale under the conditions of town life. The difficulties were numerous. The school was in the very centre of the town, and was largely fed by boys who lived in the many towns round Manchester, Bury, Ashton-under-Lyne, Oldham, Rochdale and the like. There was practically no playground, and certainly no playing-fields could be got. Thus the school had no athletics. Those who played games did so in their own districts. The trains brought and took away the "outlanders," and the boys who lived within two or three miles trudged to and fro. Some few boarded in families, and went home for the week-end. The amount available for paying under-masters was insufficient. The buildings were old and inconvenient. Such was the clay laid before our master potter. *Spartam nactus es, hanc exorna.*

In dealing with these little matters, however, Mr. Walker had much to help him. In the first place, he was working out his own theories in his own way. With a man so reserved and so paradoxical, it was difficult to be certain; but I had the honour of knowing Mr. Walker intimately for many years, and I think the underlying principle of all his work was that a day-school was better than a boarding-school. He had himself been at Rugby, and therefore spoke with knowledge. He held very strongly that a boy's "moral education" was for the parents and not for the schoolmaster; and he would utter memorable words about the parents who sent their boys to public schools to learn, among other things, virtue, and then thought

that they " had done with that matter," as Wordsworth did with Duty by writing an Ode upon it. He also laid great stress on the advantage to boys of growing up in company with their mother and sisters ; on this many-sided subject he had much to say that went deep. He was, however, the friend of athletics, having himself been the champion in boxing at Oxford, and the school therefore possessed a very fine gymnasium.

Another great advantage to Mr. Walker was that he had a body of trustees who were both strong and loyal. They would not have been Manchester merchants if they had swallowed him blindly. But they would also not have been Manchester merchants if they had parted with a good thing when they had got it. Lancashire owes much to the men who through good and evil report—and there was plenty of both—enabled their High Master to carry out his scheme. There may well have been severe contests—one of the trustees whom I knew later would often say : " I am not on speaking terms with Mr. Walker—at present " —nor could Walker always have got his own way. But their policy in supporting him was high-minded—and it was strong.

An illustration may be forgiven. There came a time when the High Master found, or thought he found, insubordination among the under-masters. He saw his trustees, and in the result dismissed nine masters on the same day. The newspapers were vocal on this subject. For many weeks letters and leading articles were rife in the *Guardian*, and more particularly in the *Examiner*, the Radical organ. The agitation was the more prolonged because no kind of defence was ever offered. Occasionally a good parent wrote to say that his son had been well taught at the school, but that was

all. In time the matter died down. Mr. Walker had made it a condition with the trustees that they should set up no defence.

A not unpleasing incident resulted from this trouble when, some years later, Mr. Walker left for St. Paul's. In the smoking-room of the chief club at Manchester, after lunch, the editor of the *Examiner* took up his parable before an impressive audience, and, addressing Walker, said that in the masters' trouble he, as an editor, had found it his duty to attack the expulsion severely ; but, as Walker was now leaving, he wished to express his appreciation of the great work done at the Grammar School. Walker was not the man to take patronage from any Radical editor ; but he simply said, " My dear sir, you forget the real purpose of a newspaper, which is advertisement. In the term after you attacked us we admitted more boys than ever before or since." When I asked Walker if this were a true story, he said characteristically, " Yes, and what I said was true. A man is coming into town, and, opening his newspaper, sees at the head of a column of correspondence, ' Manchester Grammar School.' He doesn't read the correspondence—no one does that—but he thinks ' that school might suit my boy Jack, and he could come in with me in the morning,' and so we get another pupil."

The variety of teaching at the Manchester Grammar School was probably in those days unique. Bishop Butler has said, " Of education information is really the least part " ; and Mr. Walker carried this theory into practice. His passion was to find out what an apparently stupid lad could do, and then set him to do it. Chemistry and physics were taught at Manchester earlier than at any public school ; and in one particular

year Manchester boys gained one-third of the scholarships in science given at Oxford and Cambridge. Many pupils spent their last year or two in a huge loft with the drawing master, Mr. Pritchard, one of Walker's many discoveries ; for there were usually openings for mechanical and engineering draftsmen in Manchester. In the sixth no mathematician did classics, and *vice versa*.

I once asked Mr. Walker, when he was at St. Paul's, whom he thought his most successful pupil. He answered somewhat as follows : " Well, at Manchester there was a boy from a little public-house in Long Milgate. He was always at the bottom of the Upper Remove, and I sent for his mother, a widow who kept the public-house. I told her I did not keep a school for boys like hers, and he must go away. A few days afterwards I found one morning at my door a young man something between a drunken racing tout and an ostler out of work. He came into my room and explained that he was this boy's brother, and that he thought one castaway in the family was enough. Could not something be done ? I found the boy had some slight turn for mechanical drawing ; so I got Mr. Pritchard to take him into the drawing school, and he did nothing but mechanical drawings. Ultimately he got a place with one of the great engineering firms. After a time he called to see me ; and said he was getting £250 and hoped to rise to £600. He was very much over-dressed, very conceited, and most anxious to assure me that he had cut off all intercourse with his family. He will never make more than £500 a year. I consider him," Walker ended slowly, " the most successful pupil I ever had ; but," with one of his grave pauses, " I sometimes remember the elder brother."

The classical teaching in the sixth form was done entirely by Mr. Walker. Like Dr. Jowett, he was fertile in experiments, and it is fairly certain that no sixth form was then taught as we were. We had no regular hours, and the work varied from week to week. We once went through the *Odyssey*, doing a book a day. When the day's work was finished, perhaps at one or two o'clock, we went home. The translation would begin at the bottom of the form, and if a senior said he had not prepared any more he was encouraged to go on at sight ; the lower boys following this translation got more and more familiar with the Homeric words, so that at the end of the time probably every boy knew the whole story—as Charles James Fox said, the best in the world—and would have tried to construe himself. When we were doing Greek iambs, a month might be given to this subject alone, and incidentally we read plays of Euripides to get a vocabulary. These plays we read omitting all the choruses and *στιχομυθία*, so that in two or three days a tragedy could be read. Before I went to Oxford I had read all Euripides in this way. One or two books of Thucydides and Demosthenes' "On the Crown" were our Greek prose works ; but these were studied in much more detail. Vergil gave us the 2nd, 4th and 6th *Aeneids* and occasionally the 4th *Georgic*. Of Horace we were expected to know the *Odes* and something of the *Ars Poetica*. Cicero, more particularly in his 2nd *Philippic* and *De Oratore*, was to teach us to write Latin prose. No Tacitus was ever allowed, but we might read Erasmus' *Colloquies*. I have still my copy of the *Colloquies*, bound in parchment and exquisitely printed. The dialogue with Echo, where the end of the scholar's sentences is taken up by Echo

without making nonsense, is a wonderful *tour de force*, and the ending delightful. "*Tres jam annos ætatem trivi in legendo Cicerone*. One boy, before an Oxford scholarship examination, was sent home for three weeks with three books to read," *Echo*. *ove*, Matthew Arnold's *Essays in Criticism*, Darwin's *Voyage of the Beagle*, because "his style is so beautiful," and Browning's poem, *The Bishop Orders his Tomb in St. Praxeth*, because "they are sure to ask you about the Renaissance." We wrote verses, of course; in Greek, iambics only, in Latin, elegiacs at first, and later more and more hexameters, occasionally some alcaics or sapphics. Mr. Walker once said that the best intellectual training a clever boy could have was turning Milton into Vergilian verse. We read no English beyond what we turned into Latin or Greek. It was probably not a bad way of learning English. You studied with great care the language which had to be translated into another tongue. We did no French or German after the fifth form; and our only history was that of Greece and Rome.

When Mr. Walker came to London, his home at St. Paul's was always open to old Manchester boys. Walking with him one summer evening in the grounds, I pointed to the school, then looking its best in the evening light, and said, "Surely those are fine buildings?" "Yes, my dear boy, yes; the order was for a school to hold a thousand boys, and we take five hundred quite comfortably."

The late Bishop of Carlisle, Dr. Diggle, an early pupil, was once staying at the house and smoking in the evening with him and a young relative, who had just gone to Oxford. Walker smoked strong cigars, and this lad, having smoked one, took a second. "I

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suppose," confessed the Bishop to me, "my looks must have shown some sign of mild surprise, for Walker at once said, 'My dear Diggle, I have played the drunken Helot before him for years, but without success. Pass me that box.'"

Not the least impressive side of Mr. Walker's personality was his influence upon his colleagues. Jowett sent to him a young Scotchman who, having been reared on classics, had deviated into science. The young man returned to his first love, and, living in rooms near the Temple, got up at five o'clock, made his own porridge, and wrote a volume of Greek critical learning, which brought him a European reputation and, at a very early age, the headmastership of Westminster. This was Dr. Rutherford, a memorable man to his friends. When he applied for the Professorship of Greek at Edinburgh Cobet of Leyden, admittedly the greatest Greek scholar in Europe, wrote a Latin letter to the electors, which ended, "*Eligite ergo illum qui vobis aliquando Porsonum et Elmsleium redditurus est.*" The electors were the Lord Provost and Baillies of Edinburgh City. Probably offended with a professor who wrote to them in a language they could not understand, they committed the solecism of electing over Rutherford's head an Irishman, the famous Mr. S. H. Butcher. However, it was everything to Rutherford that Cobet thought him in the same street with Richard Porson and that exquisite Grecian, Elmsley. Rutherford was a most original scholar, fertile in fresh suggestions and tentative views. The last time I saw him was at his country house a few months before his death. He was then working on the fragments of Aristophanes, and had been puzzled by the scholiasts explaining constantly, "Here the author expresses surprise,"

"This is an exclamation of astonishment." He had that morning solved the riddle by discovering that the Greeks had no stop to express astonishment, and that the sign (!) first came into existence—I think he said—about 1380. So that my latest recollection of him is of a man who, in the midst of weakness, was very happy.

Mr. Walker, whom he always revered, might in an ideal commonwealth have been the Minister of Education, to solve the problem of school boards and the teaching of the poor. For education in its widest sense was his subject; his knowledge of its meaning was profound, and his enthusiasm for its application was untiring. But he was not a parliamentary man, and no one could have made him a peer. Many people only knew him at St. Paul's, when he had come into his own and had resources available which the North could not have given him. There, for instance, he would preside at the dinners in the school hall, where he dealt firmly with Cabinet Ministers and induced artists to express their ideas otherwise than in paint or marble. All this we rejoiced to see, but the man of my dreams was the young man who leavened the lump in Lancashire and forced them to be humane. "*Vixere fortes ante Agamemnona*," says the poet. Mr. Walker's distinguished successors would be the first to say that their Agamemnon came before them. Within the narrow bounds of that position, in a sphere whose limitations galled him, he may be said to have shown himself *ἄναξ ἀνδρῶν*, a king among men.

CHAPTER III

MANCHESTER

IT is not an unmixed pleasure to attend a day-school in a great city, especially if you go into lodgings at sixteen years of age. But the life had its compensations. There is in Manchester a wide and quiet street called John Street, the Harley Street of the city. Our grammar school scholar, returning home after a long morning, finds it deserted. A stout, well-to-do citizen appears at the other end of the street, followed shortly by two other citizens, far from respectable, who seize the rich man, strip him of his boots, and run away in opposite directions. The citizen cannot decide which to follow, and moreover is in his socks. The scholar and the subsequent constable tender vain condolences.

Or the scholar is walking up a hill which leads to fresh air. A strong, tall athlete comes rushing down the hill, outdistancing a constable, who calls "Stop, thief." On the pavement is a little insignificant man. He steps into the centre of the road. The thief makes straight for him. At the psychological moment the little man drops flat. The athlete falls full length over his body, and lies half stunned. The policeman pants up with the handcuffs. The little man accompanies him to the station. The scholar resumes his afternoon exercise.

Whatever the theatre teaches, it teaches strongly,¹ and in the Prince's Theatre at Manchester the school-

¹ "*Multum interest hic quid velit : nam quicquid vult, valde vult,*" said Julius Cæsar of Brutus, a few months before his assassination.

boy could learn much unconsciously. There Mr. Charles Calvert did for Shakespeare much what Sir Henry Irving was doing in London ; and did it, I think, earlier. He produced his plays with a sumptuous completeness which was new. His chief star was Samuel Phelps, who played for the part, and not to the audience. Two of his impersonations stand out in my recollection, his Falstaff and his Malvolio. Falstaff must be an almost impossible part, for every one seems to fail with it ; but Phelps, with his intellectual powers, kept him up. The magnificent talk in the first part of " Henry IV." was given in a leisurely way, with the relish of a humorist who could dominate the Prince and Poins with effortless ease. In the second part he was unflinching with the drunkenness and lechery. But all this did not make the conduct of the new young king anything but unendurable on the stage. On this matter Mr. A. C. Bradley's wonderful essay is surely final.

In " Twelfth Night " Phelps was very much like Charles Lamb's idea of Malvolio. He was neither the pathetic Don Quixote nor the grimacing fool. But he had quite enough dignity and quite enough vanity to make him interesting. The part played well, which, after all, may have been what Shakespeare chiefly intended.

Every Thursday in the winter there were the concerts in the Free Trade Hall, with the orchestra which Mr. Charles Hallé built up, and the new music which he constantly introduced. I believe the music of Hector Berlioz was first heard in England at these concerts. Hallé got plenty of fire and enthusiasm out of his orchestra, but his own playing on the piano was cold and correct. This in a concerto became almost ludi-

crous. The music in the instruments might be impassioned, but his notes tinkled along like ice chinking against the sides of a glass. "He sendeth forth his frost like wool ; who shall stand before his cold ?" The words of the American in St. James's Hall hit the mark : " The performances of the aged statesman at the pianner do not interest me."

Every Christmas " The Messiah " was performed in the Free Trade Hall. When Sims Reeves stood up and began " Comfort ye " on the high unaccompanied B, delivered from the chest and held, people looked at one another as if to say, " This is the way Manchester performs ' The Messiah.' ' Todgers ' can do it ! " Madame Tietjens was a great favourite. She was a huge, plain woman—like Mr. Jorrocks' Batsy, " big and 'ippy,"—with an immense voice, and a manner of production so artistic that it seemed natural. On one occasion I tried with others to get away before the third part commenced ; but the orchestra had begun, and we had to stand under the platform while she sang " I know that my Redeemer liveth " to 3,000 people. At such close quarters we could appreciate the volume of sound ; she might have been a great organ. Of course every note she sang was heard by all, but any one can be heard easily in the Free Trade Hall.

Another visitor to this hall was Charles Dickens. As a lad I heard him read, both in this building and in a smaller hall. He stood by a small desk on which he had his book for reference. In " Sikes and Nancy " the action was very continuous, and the girl was knocked down with realistic violence by the side of the desk. I heard the trial scene from " Pickwick " twice, and it told more in the small room. Many commentators have noted that Sam Weller was disappointing. They

ought never to have expected it to succeed. No reader can go at Sam Weller's pace. The piece that seemed to take best in Lancashire was the "Christmas Carol." It was very pleasant when one Christmas he read in the Free Trade Hall how there came to the Christmas party "the housemaid with her cousin the baker, and the cook with her brother's particular friend, the milk-man," and then looked up and brightly ran his eyes over the upper gallery where many such couples were listening to him. The house laughed cordially, the young couples were not in the least displeased, and everything was happy and Christmas-like.

The first judge whom I remember was the great Mr. Justice Willes. He came to Manchester on circuit when I was a boy, and I saw him twice sitting in court. He was a tall thin man, and wore his beard pointed like some of the pictures in our halls, of the old judges. Among lawyers he held the highest reputation for legal learning. But his curiosity seems to have been omnivorous. A judgment of his was said by fishermen to contain all there was to be known about eels and their winter and summer habits. He was an enthusiastic volunteer, and so, learned about tactics and manœuvres. But he was sometimes unready and *gauche* in court both as counsel and as judge. This no doubt was due to his solitary hermit-like life; for he only married after he was created a judge.

His curiosity, or rather desire for knowledge, was illustrated at Manchester by an occurrence of which I heard many years later. He went round the jail with the governor, and among other things inspected the treadmill of those days. At Manchester the treadmill system was as follows: Over the wheel were five separate compartments going across its width. In

each compartment the man had a rail to hold on by, and, stepping upwards, the five together by their feet trod the wheel round. Every five minutes a bell rang, and each prisoner trod five minutes in each compartment and then moved on to his left, and having thus trod for twenty-five minutes, rested for five minutes, so completing half an hour. Mr. Justice Willes was taken by the governor to the right side, where the prisoners came on to the wheel to begin their five-and-twenty minutes. The judge, to whom all exercise was a delight, took the place of a prisoner and solemnly began to tread his five minutes, saying he rather liked it. At this moment the governor was called away, and the prisoner for whom the judge was deputising saw his chance and moved to one side. The bell duly rang, and the next prisoner in turn came round. " 'Ere move up, Guv'nor," he said, as subsequently reported, and " I beg your pardon, sir," said the judge with a bow, and moved into the second compartment. The governor of the jail, returning, found no judge, and assuming he had gone away, went to look for him elsewhere. The unfortunate judge worked his way through the whole twenty-five minutes and came out seriously exhausted.

As a barrister Willes was junior to the Treasury, and entitled to ask for a judgeship in due course. He was also counsel to Lloyds, as being the best opinion upon insurance law. I have been told of three Queen's Counsel, sitting and taking notes of his argument on points of law. But I rather think that in those days the junior could claim to argue the law, at any rate on demurrers. In this position, and with these qualifications, he was on one occasion instructed to advise the Bank of England in consultation with Mr. Serjeant

Hayes (afterwards a judge) and Sir Richard Bethell, then Attorney-General, and afterwards the intolerable Lord Westbury. At the Attorney-General's chambers they attended, and being admitted found that short and rotund personage lying on his back upon a pink silk sofa, with a chair beside him on which was an open pint of champagne and one glass. This, no doubt, to show how indifferent to him were the Bank of England and all such sublunary institutions. When they were seated, "Well, Hayes," said the Attorney in his mincing accents, "It is perfectly obvious that in this case the Bank have no chance of success." Mr. Serjeant Hayes said the matter was very difficult, but he thought the Bank were wrong. "Oh! of course," said Bethell. Thereupon Willes—who had independently advised the action—explained, no doubt at length and with nervous awkwardness, why he thought the Bank were right. Bethell contemplated the ceiling and took an occasional sip of his champagne. When Willes had finished, he put his hand down by the side of his sofa and picked up the instructions from the floor. These instructions would be endorsed, "Mr. Attorney-General, with you Mr. Serjeant Hayes and Mr. Willes, of the Common Law Bar." Peering at these instructions, "In this case," said Bethell, "Mr. Serjeant Hayes and I are of the opinion that the Bank have no cause of action! Mr.," then a pause and affectation of being unable to read an unfamiliar name, "Mr. Weelis of the Common Law Bar is of the contrary opinion. Good afternoon." It was for insolence like this that Mr. Charles Neate, for many years member for Oxford City, horse-whipped Bethell and was disbarred. It is, perhaps, not generally known that when the House of Commons passed the vote of censure which led to Westbury's immediate

resignation of the Great Seal, Mr. Neate voted in Westbury's favour, on the ground that the personal charges were not made out. A good many people would have felt tempted to take no part in the division. The accepted view now is that Westbury on that occasion was merely very negligent.

However, Mr. Justice Willes may have been rather trying. Even as a judge, he must have been very precise and almost pedantic; and he seems to have unloaded his learning in an odd way. Thus on one occasion he said to Sir John Karslake, the handsome idol of the Western Circuit, "But Mr. Solicitor, if that is your argument, what do you say to the case in *Siderfin*?" "Well, my Lord, I've heard your Lordship say that two or three times lately, and for the life of me, I can't make out what your Lordship means." Willes would probably colour and say nothing. *Siderfin* is an obscure reporter who records a decision with regard to Sir Charles Sedley which makes the name known in Criminal Courts. But it was an affectation to say to the Solicitor-General, or any one else, "You and I know all the cases in *Siderfin*. You will recognise which of them I now refer to." So Sir John's breezy retort was not undeserved.

In the same way the judge had in Peake's *nisi prius* reports an anonymous case—*Monstrum horrendum, informe—cui nomen ademptum*—with which he sometimes made great play.

On one occasion this most learned judge said, "But the third Keeble is no authority. It cannot be cited." In the present day the *Law Reports* have so much driven out the old reports that the distinguishing of values is almost an antiquarian pursuit. But some things were quite definite before the *Law Reports*.

Espinasse was the reporter who followed immediately on Campbell, whose *nisi prius* reports were always highly esteemed as authority. A counsel once asked Mr. Justice Maule how he got over the case in Espinasse, and Mr. Justice Maule, in his thin languid voice (he suffered from asthma), said that he cared nothing for Espinasse or any other ass. But more decorous, though not more learned, judges than Maule always insisted that the 5th Espinasse must not be cited, and would hardly admit even the earlier volumes. Lowndes, who reported on the Northern Circuit, would barely be tolerated. It is in his rare and amusing volume that the head-note is to be found, "Carlisle. Possession of trousers in Scotland evidence of larceny in England." It was not desirable to quote the Modern Reports if you could find Lord Mansfield in any other report. Carrington and Payne depended a good deal on the number of the volume. The later it was, the less was it attended to. It would seem that Carrington, like Espinasse, went down the hill, and I have myself heard a judge refuse to hear Carrington and Kirwan cited. These reports follow Carrington and Payne in date; and the judge said he didn't believe the reporter could at that date be trusted. This was a bold commercial judge, now dead. Of Price's Reports in the Exchequer it used to be said that you could find in them anything you wanted, if you looked long enough. He was the Beavan of Common Law Reporters. I once looked a long time and thought I found something in Price which seemed authority worth citing in a case in which Sir Horace Davey led me. At two or three consultations running I brought this case forward after the second leader had finished, and Sir Horace always let me read the passage to him and murmured

"Yes, that seems some authority." I should point out to my American friends that Sir Horace did not mean what they mean by these words. But I never got him to take the book into his hands until he was arguing in Court. He suddenly swerved round and said, "Give me that case of yours," and began turning the pages with a listless and indifferent hand—for he was very tired—and glancing at them in a lack-lustre way, said, "Then there is a case, my Lord, in the fourth Price"—looking at the number on the back of the volume—"which decides a number of interesting matters including, I see," pausing at a particular page, "the ownership of a pond in Hertfordshire, and there is somewhere," turning a few more pages, "something that seems to bear on this matter. But however," ceasing to turn any more pages from sheer inanition, "I don't think I'll cite it," handing the book back to me with a smile.

To return from Willes to my youth. In one of my holidays my mother and I were taken by Colonel Wilson-Patten (afterwards Lord Winmarleigh) to hear a debate in the House of Commons. Going into Westminster Hall we met by chance the then member for Burnley, who, like Colonel Wilson-Patten, lived at Warrington, and, like him, had known my mother in the work of relieving the Lancashire cotton famine. He talked to us till the Colonel arrived, and then went into the House. My mother being safely hidden behind the grille, the Colonel, who seemed omnipotent, placed me in the pew, in the gallery facing the Speaker, reserved for the sons of peers. Here I sat by myself and, looking about me, identified the member for Burnley on the Government side of the House. He also was looking about, and presently identified me. When he was

satisfied that I was in the House, it seemed that he was satisfied that my mother was there too, for he jumped up at the first chance, and having caught the Speaker's eye, delivered a short speech—and a good short speech—intended probably much more for my mother than for the House of Commons. When he sat down half a dozen Conservatives sprang up to answer him, for the subject was the Universities Test Act. Suddenly they all fell back into their seats. Mr. Disraeli was up. Very slowly he seemed to get out of his seat and lean forward to the table, with bloodless face and the black lock across his forehead, absolutely impassive and aloof from the world. After a slight pause his lips moved and he began, in colourless tones: "The didactic member for Burnley," he said; and for a long time could say nothing else, the laughter was so continuous. What was worse, the epithet always stuck. How much better for the worthy member if he had not met us in Westminster Hall, or I had not been put into the pew reserved for peers' sons!

- In the last year of my school-days I travelled with my father in Scotland. In the island of Arran we stopped at a little inn at Corry, and went sailing with an old fisherman whose specialty was articles of faith and high Calvinistic doctrine. Having secured an Englishman who was religious but not controversial, this Scotch fisherman would have been more than human if he had not made good use of his time. He delighted to triumph as they threshed it all through from predestination to free-will, and so back from free-will to predestination, while the boat lolled idly on the clear water in the summer afternoons. On the Sabbath this man became the precentor in the little church. At the first service we attended, on the giving out of the

hymn, he produced his tuning-fork, struck it, held it to his ear, and then began. After a few notes one or two seemed to catch the air, and then one or two others ; but it was soon apparent that there were at least two views as to the identity of the tune, and no view was abandoned. "Ah'm singing 'Bangor' masel'," said another Scotchman under similar circumstances, when asked in a whisper what the tune was. To this Arran fisherman Christ was in a very true sense the light of the world, and in that light he lived uprightly in his day and generation. Nor was it in those days uncommon to find men in all ranks of life, who in the right company, and under suitable conditions, would talk gladly and freely of their religious experiences.

At Edinburgh we stumbled upon French cooking in a small Prince's Street hotel, and, being well pleased, went in the evening to the theatre and found the Haymarket Company playing "She Stoops to Conquer" and "High Life below Stairs." Coleridge says that Goldsmith did everything happily, and this comedy is so straightforward in its appeal for mirth that it might seem to play itself. Perhaps this creates the difficulty ; for in recent years, when I have seen it played, each actor has seemed so anxious—so genuinely anxious—to show that one part at any rate was exceptionally well done, that you could not see the wood for the trees. Possibly also the system of companies meant much. In any case the Haymarket players seemed to keep everything in the right tone, and the colours of Goldsmith's play stood out clearly. The two young ladies were full of brightness, and not in the least anxious to get the young man out of his illusion. Miss Madge Robertson was Kate Hardcastle. I cannot remember

the name of the actress who played the charming part of Miss Neville ; but only an artist could have been always second, and never a bad second. Mr. and Mrs. Chippendale were the parents, Mrs. Chippendale delightfully imbecile whenever her son was present, and Mr. Chippendale saying his words so perfectly that delight seemed to drop from his mouth. The *jeune premier* must have been Mr. Howe, our English Delaunay, he did the confusion of the discovery so perfectly. Diggory's snigger when the grouse in the gun-room were referred to was memorable. But all these excellencies led up to Tony Lumpkin. Mr. Buckstone, in London in later years, when he was deaf and decrepit, was always wonderful. At Edinburgh, on that night, he was in the zenith of his power. His face was, of course, his fortune ; and Tony, when not pursuing some advantage to himself, looked dismally stupid. When interested he had looks and glances of would-be low cunning that were intensely diverting, and in carrying out his intentions he tried in a clumsy, loutish way to hurry a rather large, ill-shaped body about the stage. When he had to stop speaking on account of the laughter, he looked so odd that the laughter was renewed. On that night Miss Hardcastle, on one occasion certainly, could not keep her countenance. He was brutally rude to the girls, vapidly contemptuous of his mother, and undisguisedly frightened of Mr. Hardcastle, whom he obviously hated. The drinking scene was not overdone, for Tony was anxious to be the gentleman who condescended to his humble friends. When his mother had got into the bog he was glorious.

In the farce Buckstone played the butler. When he speaks to the footman, who, he fears, may be his

rival in the housemaid's affection, he says, " James, if you speak to that young 'ooman again, I'll jab yer eye out with a fork ! " Buckstone at this speech sidled up to the footman, saying the first words softly, and suddenly shooting out his arm from his side with a twist and jerk of the hand, so quick and exact, that you seemed to see the fork do its work. ' .

On the next afternoon we made our way to Arthur's Seat, and having climbed to the top began to descend, when, by ignorance and inexperience, we quickly got among the precipices which are there to be found. My father was seized with dizziness, and entirely lost his nerve. I got him down to a place a few hundred feet above the road, where we sat down in safety, but unable to get any further. To add to our anxieties, we had been overtaken by a violent storm, which raged around us, with thunder and lightning. As we sat in our unhappiness, a man came walking rapidly along the road. I called to him, and he climbed to our place of refuge. He was of spare build, very active, with crisp hair and light blue eyes. He got us down to the road, and said something about a providential escape. My father probably expressed his gratitude to God in some simple phrase, for the stranger was kindled by his language ; and first in soft, sympathetic words, then with more earnest eloquence, spoke of things spiritual and a life beyond the grave. My fancy tells me that all the time he looked with fixed gaze beyond the horizon, as though he saw the City of God which his entrancing speech described. He stopped suddenly, shook hands with us both, said to my father, with intense earnestness, " May we meet 'there,' " and was gone. We set our faces towards Edinburgh, which, flooded in the rose and crimson of an ethereal sunset, might have been

a vision of that other City of which the stranger had spoken. But the glory soon passed, the visionary gleam faded away, and we made our way home by Holyrood in a broken and uncertain light.

“ Oh ! that our visions, whether sleep or wake,
Might all their colours from the sunset take ! ”

For fifty years from time to time, in quiet moments of idle recollection, the question has floated up in my mind, “ Can the stranger have been General Gordon ? ” I believe myself that it was he.



CHAPTER IV

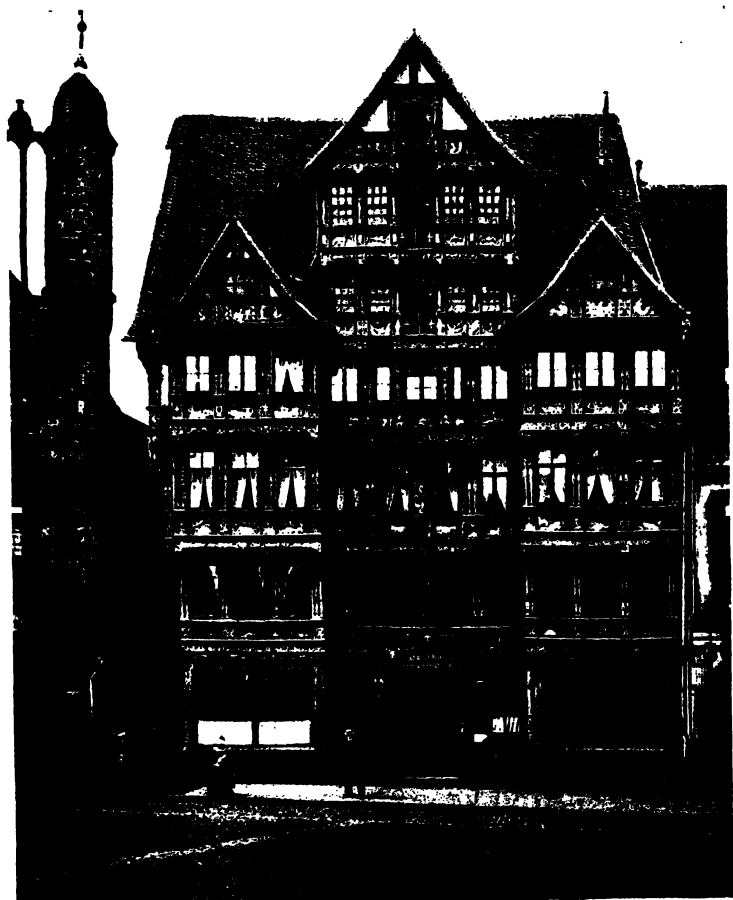
GERMANY IN THE SEVENTIES

ON returning to school in the autumn, I finished my preparations for the Balliol scholarship, for which the examination took place in November. I had the good fortune to be chosen senior scholar. It may interest students of education to know that the essay was set by Jowett himself, and in these words, "Can a great poet be also a great critic?" Many may think that for boys trained chiefly on Greek and Latin literature, who were just beginning to think, the choice was perfect.

Those who were elected at Balliol in November did not go into residence till the following October; and the Master decided that I should go to Germany and learn the language. In those distant days, both in classics and philosophy, Germany had much to say. Apparently it is not so now, and the same success and luxury which corrupted their statesmen and generals had before the war turned their professors and philosophers into pretentious idlers and inaccurate sciolists.

I lived in this prehistoric Germany twice in my youth, once before going up to Oxford, and again on taking my degree. To those who knew Germany in the seventies the Germany of, say, 1910 was another country.

"The Jews were poor," said M. Renan in a lecture, "in those days," hesitating slightly in the middle of



AN OLD HOUSE AT HILDESHEIM

the sentence. The Germans were distinctly poor in the days of which I speak, and in the provinces which I visited. On a bright frosty Sunday the train took me from Hamburg through clearings in the pine forests to Hildesheim, in Hanover, which was for six months to be my "spiritual home." It was a place at that time very little known to England, but described by Bishop Stubbs, the historian, as unique in Europe. One advantage of this city was the purity of accent with which they spoke their language. All Hanoverians agreed that the best German in Germany was spoken at Celle, and Hildesheim was only twelve miles from Celle. They pronounced the "g" hard, they pronounced the modified "u" as "ue" and not as "y," and the initial "s" in combination was not pronounced "sh." At Berlin a preacher would whine in the pulpit, in his sing-song voice, "*der juter Jott hat uns jesagt*" ("the good God has told us"). In Saxony they clipped the vowels in their rapid chatter. But in Hildesheim the people, a dignified and self-respecting race, all spoke like immortal German-silver gods.

Hanover at that time was in a transitional stage. They had lost their independence and their king after the war of 1866, and therefore hated the Prussians, and more especially Bismarck. Hildesheim was a Catholic city, and held this creed intensely. A good cathedral dated from about 1050, and a rose tree in its gardens was known throughout Germany for its age of many centuries. There were two churches as old as the cathedral, one very large and finely designed, after the manner of the Abbaye aux Hommes at Caen. But the unique feature of which Bishop Stubbs speaks was the decoration of the houses. Many single houses were elaborately painted externally, and there was a short

street in which every house on each side of the street was so decorated. All this was on elaborate façades of woodwork. No other town in Europe, it is said, has such a street, and, apart from the curiosity, the effect was rich, and in summer bright. The old professor with whom I lived, when he walked the streets, took his hat off to any woman he thought a lady, whether he knew her or not, but this was a practice that even Hildesheim thought a little old-fashioned. The Bishop walked about with a large blue cotton umbrella, held horizontally and grasped in the middle. I saw him once in a procession, in full robes, when it rained, and an acolyte held the blue umbrella over him.

In the cathedral the organ was accompanied by ten or twelve instruments. Haydn's masses were the favourites, with Mozart for special occasions, and even trumpets for the "Gloria" when required.

Clothes were made of poor stuff, often what we call in Lancashire "shoddy." Boots were ill-shaped and of wretched material; many of the children did not wear leather. The newspaper was badly printed on miserable paper. Much black bread and rye bread was eaten. At dinner there were plentiful soups and vegetables, and not too much meat; at supper sausages of all sorts and cheese, but no solid meat. The Hanoverians drank beer plentifully, and at all hours, whether in the beer-gardens or the great dark drinking-room of the tavern. Wine was rarely seen, and once when champagne was given at a dinner it was the talk of the town. It was not a great offence to get drunk occasionally. Music lessons cost eighteen-pence an hour, the organist of the cathedral charging a little more. There were very good singing clubs, often of a few men only; and a short run to Hanover enabled you to hear opera

at the Old House, where on the azure curtain the white horse of Hanover was winging his way heavenwards. A pleasant stream bounded one side of Hildesheim, and little hills lay near, with simple taverns at which supper could be got. So that, what with learning the language and making the acquaintance of the people, "a man," as Steerforth's friend, Mr. Markham, said, "might get on very well" in Hildesheim for six months.

Dresden, to which I next moved, was delightful in the summer months. The Germans whom I met were artistic and musical. Among the students were Russians and Poles of good family, and the English colony included many pleasant people. The opera house was being rebuilt, and the performances took place temporarily in a wooden circus. The one subject discussed by musicians in the city was Wagner. He had been banished from Dresden years before for his share in an attempted revolution, and he needed therefore staunch champions. His opponents complained that he had abandoned the classical forms to no purpose, that his many theories were valueless, and that the elaborate orchestration could not conceal the absence of real music ; in fact, he was a charlatan. His admirers agreed that Wagner might be something of an acquired taste, that at first he might seem difficult and require study, but that opera had not really existed before his appearance ; in fact, he was a revelation. In those times, then, it was of high interest to learn that on a certain day "*Die Meistersinger von Nürnberg*" was to be presented at five o'clock, and would not finish before ten. By way of training for the intellectual strain of five hours, my friend and I did no work after the midday dinner, but strolled about, probably in the

meadows on the banks of the Elbe, till the time came for our musical taste to be tried.

Wagner himself said that the "Meistersinger" is a comedy, and rebuked a conductor for his "andante arm." It is a comedy in the same sense that "Twelfth Night" is a comedy, that is, it presents its characters living their ordinary life in an ordinary way; there is no tragic problem and the plot, such as it is, ends happily. I believe the reputation of the "Meistersinger" has steadily risen among those who are entitled to speak with authority. It must always strike even the amateur as a very clear and very beautiful work, and a crucial example of the advance made by Wagner in the creation of musical drama. Some years later, at Munich, "Don Giovanni" was presented in the small opera house with the original orchestration. Liszt has said that for original musical genius Mozart stands above all others, and the presentation of "Don Giovanni" in a small theatre appears to be right. But even under the best circumstances, to those who have heard Wagner, "Don Giovanni" may appear sluggish. The recitatives at Munich were accompanied by the conductor alone, playing a harpsichord with one hand while he beat time. The action was broken into pieces by the beautiful airs. It was simply Mozart's music under difficulties. It is a different world where in the orchestra the strong flow of music never ceases, across which the play unfolds itself with the characters introduced by their appropriate "motifs," and the "eternal melody" surges up to carry the story forward.

The company of musicians and singers at Dresden, many of them husbands and wives, lived for their art on moderate salaries. They had one fine tenor, a mere voice, who sang in things like "The Postillion"

or "Martha." The chief star was the leading soprano, Fräulein Malten, "die Malten." She subsequently visited London and achieved much success. She had distinction. Her face was fine and serious, her movements dignified and restrained. She was greatest in the great parts and the great arias, "Dove sono" and the like. •

There was another woman, the enigma of the company. She lived apart, and was the subject of endless stories reflecting on her reputation; for no gossip is so credulous or so incessant as a German gossip. This actress was slight and lithe, with a sufficient mezzo-soprano voice, and eyes and a face which spoke. By good fortune she took her "benefit" when we were at Dresden, and played Cherubino. This character has been the subject of much good criticism since Beaumarchais created him. In the opera he seems to be generally played as a pretty boy who sings the pretty songs to his lady's harp. Not so this *bénéficiaire*. From the moment when she began her first song, "Neue Freude, Neue Schmerzen"—one of Mozart's miracles—you had before you a lad tortured with his first grand passion. There was still plenty of the *diablerie* of the page; but he was hit and would never be a child again. When he was with the Countess all was awkwardness, sudden blushes, sudden shyness—"und ich bebe und ich zittre"—nor did he sing "Voi che sapete" as a mere exercise, but at times with feeling. This strange study of fresh passion in corrupt surroundings was sufficiently arresting. Only a woman of some genius and much temperament could have carried it through. In 1913, at Vienna, where Strauss reproduced the part in his "Rosenkavalier," the lady, on the night when I saw it, played with the

lightness of a butterfly. But she was fifty-two years of age.

Of the Dresden picture gallery two things may perhaps be said.

1. In the celebrated picture by Rubens of his two sons, the elder boy stands with his feet crossed. An artist pointed out to me that both the feet as painted were left feet. I cannot from any engraving make out whether this is so. But we were standing before the picture when the artist said it.

2. In the room of the Sistine Madonna there used to be three chairs, roped off by a crimson cord and reserved for royal persons. The late Lord Bowen, when a young man, was the President and Secretary of the Society of "Binkses." To be a Binks you must do something unusual. The president elected you, and the secretary notified your election. There was no subscription, and no meetings were ever held. Being in this gallery, the president and two brethren of the society entered the room of the Sistine Madonna. To stoop beneath the cord and seat themselves in the three chairs—the president on the larger centre chair—was for the Binkses the work of a moment. An indignant attendant was rapidly found. "*Aber wir sind die Binksen*" was the explanation sweetly offered by the distinguished president.

I do not know that I have anything else of value to say about the Dresden picture gallery. Those who wish to study Wouverman will find there sixty or seventy of his white horses.

In that summer weather the Elbe was our constant resort. From day to day the stream grew less violent, and there was much competition as to who first should swim the length of the bathing-raft against the stream.

One morning a Russian got within a yard of the finish, and announced that he would do it next day. When he was sufficiently dressed I went to the lower end, and with great labour swam the whole length. In the water I felt a little exhaustion, but on the raft every muscle ached, till I could have screamed with pain but for the presence of the handsome Russian, full of smiles and chagrin.

In the evening the Elbe gave further pleasure ; for there was a supper garden on one bank, with the band on a moored platform out in the river. Thus the beauty of the music was enhanced by passing over water, and for two or three marks you could pass an evening in Paradise.

From Dresden the road to Switzerland passed through Munich. The traveller may greatly enjoy himself in the Alte Pinakothek if he looks at two artists only, Rubens and Murillo. That eminent firm, Sir Peter Paul Rubens & Co., cannot be eluded in any good gallery ; but at Munich there are four or five pictures which show what the opulent promoter could do when he painted the whole canvas himself. Calverley tells us how, at Munich, " Murillo's soft boy faces laugh amid the Seville grapes," and short of Madrid this artist seems to be at his best at Munich. We are told he was not made to paint religious subjects, but this can be said of many people.

At Munich there were two state theatres, one large and one small, where opera was performed two or three times a week. At that time Weber was in great request, and works of his were popular which are now unheard, " Preciosa," " Euryanthe " and " Oberon," as well as " Der Freischütz." The Munich orchestra displayed to advantage the many colours of Carl Maria's rich coat,

but Weber seems to have been unlucky in his librettos, and some of these performances hung fire, in spite of numberless beauties of melody and orchestration. This composer adumbrated so much of Wagner's theory and practice that the latter may have possibly rated him too high. For Beethoven said that Weber "learned late, and therefore only learned to please." It is a great nuisance that Beethoven said this, for any thought of his about music seems inevitably true. But after all said and done, how fresh and romantic is "Der Freischütz," how brilliant and dramatic the gipsy music in "Preciosa" !

Remittances failing at Munich, I was advised to try the consulate. I went to an address where I was shown into a large library, where an immense man was reading in a long easy chair. As I entered he put his book down on the floor, and I saw that it was Mills' "Political Economy." I explained that I had been told that English people in difficulties like mine could get assistance from Her Majesty's representatives, and that I should like £10. To this he replied that this sort of case was becoming rather common, and that only a month ago a lieutenant in the navy had sent luggage to the consulate, had obtained money from the consul, and had not since been heard of. I perceived two things, that I was not at the consulate, and that my £10 was in considerable jeopardy, and indeed, even to a person who had never seen a consul, the surroundings appeared to be sufficiently sumptuous. I had got to the Legation, and was talking to the Minister. I made my apologies, and said I would not trouble him further ; but with my youthful vanity added, " You will forgive me, sir, if I say I am not what you think. I am a scholar of Balliol College, Oxford, and have a letter

from the Master in my pocket." He sat up straight, saying : " Shew me a letter from Jowett, and I'll give you £50." I went away with £10 and some rough but valuable advice. Those who have read Sir Robert Morier's life will know how he thought that Jowett alone had pulled him out of the miry clay, and by constant pressure made one of England's best ambassadors. He was the Englishman who told Bismarck he was a liar, and instead of apologising produced his proofs. I have heard that when at Lisbon he had some serious difference with the Prime Minister, which led that worthy to exclaim that the standards of honour in England were not those which regulated the conduct of Portuguese aristocrats. "*Si j'étais né Portugais,*" said Sir Robert in ambassadorial French, "*je me serais suicidé entre les mamelles de ma nourrice.*" At a Balliol dinner many years afterwards, I was nearly induced by my neighbours to get up and tell my story, as Morier sprawled dozing on Jowett's right hand.

The road from Munich into Switzerland is by way of pleasant Constance, where I first saw snow mountains, far away beyond the end of the lake, with the faint rose of sunset upon them.

On leaving Oxford I went to Jena, partly to study, and partly as tutor to Professor Huxley's son, Mr. Leonard Huxley. The professor met me at the Master's house before he engaged me. With the possible exception of George Meredith, he was the best talker I have ever heard. He spoke as if he wished to carry conviction, and looked his hearer in the face. He had, moreover, a fine sense of phrasing, and seemed to find interesting subjects by instinct. After the ladies had gone, some one—I think Mr. Goschen—had been

talking about women's rights, with that pleasant flow of easy platitude which in those days also was not unknown to distinguished statesmen. Huxley listened, and suddenly said: "I have served on two Royal Commissions relating to women, one the disagreeable one," with an apologetic look at Jowett, "and my experience is that no witness is so dishonest as a really good woman with a cause to serve." Jowett blinked as if he didn't quite like it, but at any rate the conversation grew animated. An anecdote of Professor Owen was arresting. That great anatomist was shown a small winged statue of Sleep, which had just come to the museum from Athens. After inspection he said: "How wonderful the Greeks were. Those wings are the wings of the bird which has a softer and more silent flight than any other known bird." During my early days in London, the Professor and Mrs. Huxley showed me much kindness. He never appeared to better advantage than in his own home.

Jena in those days was a good sort of University. The students were not well-to-do; and the clubs, though they existed, were very different from the clubs at Heidelberg or Bonn. There were several professors of distinction. Of these the most famous was Haeckel. He, of course, was ready to do anything for any one introduced by the great Huxley; but he was profoundly conceited, and even then dominated by a dislike for England which ultimately became unreasoning hatred. I am unfitted to speak about the value of his scientific work; but the veriest amateur must notice in him an absence of that modesty of statement, that striving against exaggeration, that desire to weigh and indeed to overestimate the force of objections, that philosophic reverence for truth, which leaps to the eye

on every page of Darwin's writings. The professor of modern history was Delbruck, who must have been the future Minister of State. Public meetings were rare in Jena, and indeed in Germany ; but at one such meeting his eloquence provoked much discussion and admiration. There was a professor of theology and comparative religions, a man of great celebrity, whose name was Hase, "*der alte Hase*" ("the old hare") his enemies called him. I attended some lectures of his in which he traced the sense of religion in the various races of mankind to one source, namely fear, with numberless illustrations from early mythologies and savage customs. As I wanted to know not where religion came from, but where it had got to, I gave him up. He was nominally a minister of the Lutheran Church, but I never saw an educated man behave more rudely to a woman than he did to a lady at a picnic who asked him to give some trifle to a missionary cause. Among the younger professors I had some friends, notably Professor Sievers, whose subject was Anglo-Saxon. It was chastening to find this large, good, kind young man, with his yellow beard and big spectacles, burrowing at all times into the details of the language of authors who had lived and written in England, whose very names I had never heard. However, the microscopic detail of German learning at that time must have been overdone. A friend of mine knew an old professor who in his youth had chosen for his life's work the Greek of the New Testament Epistles ; he was to compare the language and thought of St. Paul, St. John, St. James, the author of the epistle to the Hebrews, and so forth. He had begun with St. John, and quite late in life was still at work on the final revision of the first epistle. The two short epistles which follow were

ready for publication. Beyond St. John he did not hope to get in this life. "*Einen historischen Paulus hab' ich ganz abgeworfen*," he said, with a sort of pride. "I have long ceased to think of St. Paul as a real man." There seems something rather spiteful in this, as if, being unable to comment on St. Paul, the commentator refused to allow him to exist.

My friend, the late Professor W. P. Ker—*ce n'est pas le voir que de s'en souvenir*—used to say that a book upon Dickens by a German professor contained a note, saying, "*Die schwester, die imps in the pantomime spielte, war ebenfalls nicht historisch*." ("The sister who played the imps in the pantomime was certainly not a real person.") What occupation could be more profitless than to hunt up persons known to Dickens (of all people) from whom he might have got hints for his characters! Why not search for the originals of Mr. Shandy and Uncle Toby? Or Malvolio? Or Falstaff?

Many of the unmarried professors and professional men in Jena dined in the middle of the day at hotels or taverns, subscribing by the month. The "Black Bear" gave the choicest dinner, and here they paid 1s. 3d. Possibly thirty people sat down to a long table. One day a second long table was laid out on the far side of the room. While we wondered what this new thing meant, the door opened, and there entered the Abbé Liszt. No one could mistake that strange, unsatisfied face. As we ate, he walked up and down the room, then rang the bell and ordered red and white wine and glasses. These were brought, the red bottle was put at one end of his table and the white bottle at the other, and during the few minutes that he waited for his guests he prowled to and fro, drinking a glass of

white wine when he got to one end, and a glass of red wine when he got to the other. This to a German audience was exactly the right thing to do. Every one was asking his neighbour why the great man did this, and no one suggested that he did it because, on that occasion, at any rate, he was a charlatan. A German plutocrat, entertaining Johannes Brahms, called out to him, "Herr Brahms, I am now sending for some hock, which is among hocks what you are among composers." "Mein herr," said Brahms, "if you have any John Sebastian Bach in your cellar, bring it up." The man who wishes to find a vintage wine among the compositions of Liszt must search long.

However, the entertainment did not finish with the dinner. It appeared that Jena, where he had studied in his youth, was then the only place in Europe where Liszt could be induced to play in public, and that there was to be a concert that afternoon in the church, the only place large enough to hold an audience. Whether he would play was always doubtful, but to meet contingencies a grand piano was handed up into the organ loft. His party were singers and musicians, and they gave a concert, in which the organ or the instruments played any necessary accompaniment. The piano remained closed. At last the moment arrived when the maestro was to be entreated, and to the soprano, a beautiful young woman, he finally made the predetermined concession after much dramatic refusal. He did not play long, nor did the selection include any pieces requiring violent execution; but sufficient was done to show that in his full strength he must have been a prince among performers. The luck was to hear him at all.

When Heine was a young man at Jena he walked to

Weimar to present himself to Goethe, the great Jupiter of his description. He says that, on entering the presence, he was so stricken with nervousness that he could only tell his deity that "the plums on the fruit trees along the road were very fine." This statement held good sixty years later. There were fruit trees on all the roads round Jena, which were said to belong to the State. It was also said that any wayfarer was entitled to eat the fruit of these trees ; at any rate, they all did it in my time. *Quorum pars magna fui.*

CHAPTER V

BALLIOL COLLEGE

BEFORE I went to Oxford there had been a vacant interlunar space, during which no Manchester boys had been on the Balliol foundation. Then, further back, came a galaxy of stars who had all been there in two or three successive years. Two of these were scholar and exhibitioner in the same year, and were close friends. The scholar had been discovered by Mr. Walker in a lower form because, writing an essay on the subject "Horses, asses and mules," he began with the heading "Artificial Limbs." As a man he was gaunt, short-sighted, and nervous, with great gifts and still greater disadvantages. He did not succeed at Oxford, largely owing to religious and theological troubles, which, as it was said, overwhelmed him. He went back to Manchester, taught for a time at the school, and then became a curate with a ritualistic clergyman. Ritualism in those days was not common in Lancashire districts, and the Bishop (Prince Lee) was its avowed opponent. So this clergyman, W., had to pay high salaries, and G., as he may be called, was offered £200 a year. He accepted ; although Walker had said, "It can make no difference what W. offers ; he never pays anything." G. soon left this shadowy curacy, and gradually achieved a sort of Unitarianism. As he was a very good and lovable man, he got together a considerable congregation, who were glad to provide for his simple wants. But soon the gadfly stung him

again ; and he wandered to London, where he taught some sort of faith of his own to a few people in great poverty.

He had been to Greece, and being a cormorant for knowledge had learnt modern Greek, and wrote a little grammar of the language which was innocently published by the Clarendon Press. In one of the notes to that grammar was hidden a bombshell of the deadliest character. The writer had pursued his studies of Greek from the ancient Greek of his youth through the centuries which brought him to the modern Greek of his book. In this note he dealt with the date at which the Gospel of St. John was written. His thesis was that there were some four or five words or phrases in that Gospel which were not to be found in any secular writer of Greek earlier than (I think) the fifth century. This method of attack depends upon the reliability of the test. But if it were established that five such phrases first came into the language five hundred years after Christ, and are also found in the Gospel, the position would become parlous ; and if there were ten such phrases the matter would seem unarguable. It is whimsical that a remote note in a grammar by an unknown usher should contain so powerful a solvent of Gospel authenticity. The comparison of the philosophy of the fourth Gospel with that of Greek and Alexandrian Platonists can always remain a matter of controversy, but language cannot lie. I have never met any one who had stumbled on this buried fragment. But if the writer had been the contemporary of the great Bentley, the Master of Trinity would have recognised a method identical with that which had made his "Epistles of Phalaris" immortal.

The exhibitioner who was this scholar's friend was of a very different type. He was, when I knew him, a big, florid, loud-voiced barrister, who may be called N. At Oxford he played the Philistine. But being extremely clever, ready and amusing, he was most popular at the Union. Rossetti and his pre-Raphaelite friends had recently painted the vaulting of the old debating room. On one occasion these famous paintings became the subject of debate in the room itself, and much was said by the followers of Ruskin and by the "plain" young men who disliked both the cartoons and the pre-Raphaelites. N. came in late, but was soon in evidence. Professing complete ignorance and an earnest desire to be enlightened, he sought for information "on a few matters of fact. First, who was the great Preraphael, and when did he live?" On another occasion, in May term, there was a "star" debate upon women's rights, and the ladies' gallery was crowded. "I had a friend," said N., "who was much interested in this cause, a dear friend." On this there were smiles in the gallery, and cries of "name" from the floor of the house. "It was a very dear friend," said N., protestingly. The cries of "name" were overwhelming, and the laughter great. "He never told me his name," said N. simply.

N., like his friend G., returned to Manchester, but, unlike him, had achieved much success in the schools at Oxford. Coming to his native town, he rapidly made his way as a local barrister. It would have been impossible for him to fail to achieve notoriety. He was courageous, rapid in thought, full and easy in expression; and he was determined to make his way. He may have been angry with Oxford for leaving him unprovided with a fellowship; for, being self-centred

and very vain, he was correspondingly sensitive to any slight or reflection on his superiority. In any case he was at odds with the world, and in all his brilliant talk professed an indifference to the ordinary rules of conduct which was often too like the truth to be either entertaining or instructive. This tone was resented, and he came to be a good deal left alone. To be without an audience was to him a great deprivation, and thus he was moody and bitter in the midst of success which was envied.

For, indeed, he achieved a great deal. Not being on good terms with many of the leaders, whom he openly carped at, he got a great many briefs in which he was either single-handed or had a junior. When I joined the circuit, I was introduced to him as a member of his old school and college. This was unfortunate, for he hated both institutions, or professed to do so. However, he advised me to imitate his methods, if I wished to get on. "I am the best £25 getter on the circuit," he said roughly; and so I found he was. He had a huge mixed bag of heterogeneous cases. Give him a barmaid with a bloated face and a doubtful past, and he would get her £25 for a problematical breach of promise. Give him a money-lender who by fraud had created against a spendthrift a claim for £200, and he would find his way to a compromise verdict for £20 or £30, with costs. In those days, when prisoners could not give evidence and throw their case away involuntarily, a skilful defender of prisoners had quite a reasonable chance of getting his man off; and therefore there was some little money to be made in the criminal courts. N. had in this field great scope for his unusual powers, and he used to elaborate amazing theories which were consistent with the evidence for the prosecution.

Those theories, it was to be supposed, might have been proved to be correct, had not the prisoner unfortunately been prevented by law from going into the witness-box. In impossible cases N. would amuse himself and the jury by ten minutes' rhetoric about nothing at all. His power of phrasing was very great, and his manner of speaking clear and incisive. He had one phrase about the adamant of justice and the emerald of mercy which he would throw in, if it came into his head, just to see the jury admire it. When I was junior, part of my duty was to collect the circuit subscriptions. I consulted him as to whether I should press a man who seemed very poor. "Oh! press him, of course," he said, "He has a large second-hand clothes business in the Bury New Road." This was, as I afterwards found, a mere invention. Finally, on one assize, out of about forty-five cases he was engaged in about thirty-three; and it seemed obvious that he must come to London, and after a short time there as a junior—which in those days was imperative—apply for silk and enter into his heritage. This he did with hesitation. He had ties of all kinds in Manchester, and could dominate the people with whom he professed to associate. In London he would be alone and solitary, and this he would detest. However, he burnt his boats, came up to London, and on the next circuit found—what he might well have anticipated—that other local barristers had stepped into his shoes. He had two or three briefs only. This cut him to the quick, and he returned to London. He was of a full habit of body, and had taken no care of himself, presuming on an exceptionally strong constitution. On getting back to London he felt unwell, consulted a doctor, and was told that he had a clot of blood in one leg which might fly to the heart, and that

he must lie up for at least weeks. He went back to his chambers and shot himself.

The news of his death was taken to his friend G., who, as I have said, was then engaged with a religion of his own in one of the London suburbs. G. said little about the matter, and went about his work as usual. A few days later he went on board a steamer at Southampton, which was sailing for Havre in the evening. The boat duly arrived at Havre next morning, but one passenger was missing and was never seen again.

A different fate was that of Edward Harrison, the genius of our school. Mr. Walker, in his young days, taught evening classes at Owens College. He found there young Harrison at the age of sixteen, working during the day and "improving himself" at night. Harrison, with the consent of Owens College, came to the Grammar School, knowing the rudiments of Latin and no Greek. When he was just over nineteen he got an exhibition at Balliol, and became the lifelong friend of Mr. Jowett. I saw him twice when I went to Oxford. He was slight and loosely made, walked and moved gracefully, and spoke in a beautiful and rich voice. He was clean-shaven, his face quiet, his complexion sanguine and clear, his eyes dark brown when they were not kindled, his hair and eyebrows almost black, his forehead very broad as in the Greek statues. As to the bar of Michael Angelo, I believe he had it, like Arthur Hallam. When I saw him he was about twenty-eight years of age. He had overworked himself steadily at Oxford, and must have done the same when a boy. Suddenly he broke down, and passed the remainder of his life, some thirty-five years, in endeavouring to retrieve the health and strength

which never returned. He was generally in Paris often under the charge of Pasteur, who was greatly interested in his case, in his intellect and in his character. He visited Oxford from time to time, staying with Jowett, and wandering about the back quad where he had lived. There was a sweetness of resignation about his behaviour which compelled respect and admiration, and sometimes he would break into an eloquent strain which showed what he might have become. But then the blood would come to his face, he would put his hand to his head, and would stop. He was at the Master's dinner, to which I have already referred, when Mr. Goschen and Professor Huxley were present. The conversation became general after dinner, and Mr. Goschen took his full, his very full, part in what was said. Harrison, whom Nature had intended for a great statesman, listened keenly, and at one point said a short sentence which was to Goschen's discourse as gold to copper. Goschen was generously appreciative, and a few minutes later Harrison clinched the argument with something which was final. Goschen's racial curiosity was aroused, and turning round, he said, "You are not in politics, I think, Mr. Harrison." "No." "Perhaps you have some appointment here in Oxford." "No." "But surely—might I ask—" "I have no occupation," said Harrison, flushing deeply. Even the hardened politician seemed to surmise that there was something wrong, and he probed no further. Huxley, who had been a doctor in his youth, looked anxiously at Harrison, but said nothing.

A man who had known Harrison in his "golden prime" gave me an illustration of his brilliancy in conversation. One of the scholars of another college had returned from the long vacation with a diary of

his travels in Northern Europe. This man was of the Jewish race. There are good Jews, of whom I have known many, who command respect by their character, their generosity, and their public spirit. To this class the scholar did not belong. He wished to read his diary to his friends, and gave a wine-party for this purpose. Having read much flamboyant writing about Norway, he got at last to Stockholm. Here his party had made up for some previous scantiness of food by a banquet at the great restaurant. A music-hall had followed, and the diary for the day ended with the words, which he read, "Painted beauty, £2." This was too much for Harrison. φιλοκαλοῦμεν μετ' εὐτελείας¹, he said scathingly, and left the room. The audience were probably all men reading for classical honours, to whom the second book of Thucydides would be familiar and the speech of Pericles like household words. To such an audience nothing could have been more brilliant. At any rate, I know a former Prime Minister who thought so.

On another occasion Harrison was lunching with a fellow of Corpus, and among the company was an emotional lady novelist. At that time the resident fellows of Corpus would probably number six or seven. The lady was eloquent upon the monastic beauties of colleges, and the encouragement they must give to the pursuit of learning. "Here," she said, in effect, "you have five or six men, with different subjects, united by a common love of research and a common bond of friendship." "Like snakes in a bag," suggested Harrison.

One year the subject for the Stanhope historical

¹ "We love beauty, but without extravagance" (from Pericles' eulogy of the Athenians).

essay was "The French Revolution." A German historian, von Sybel, had recently written on this subject what was supposed to be an intentionally inaccurate book. One of our most brilliant scholars, A. H. Higgs, had written for the prize, and had failed, owing possibly to the strong attacks he had made upon von Sybel's historical honesty. He was persuaded to publish the essay, a course only justified by its extreme merit. Juvenal, in attacking the fanciful accounts given by Greek historians of the invasion of Greece by Xerxes, says somewhere, "*et quicquid Græcia mendax audet in historia.*" Harrison gave to Higgs, as the motto for his brochure, "*Quicquid Germania mendax audet in historia.*"

As to Harrison's written words, I can only refer to the authorised life of Jowett. Among the redeeming features of that unhappy work are some letters written by the young Harrison when with the Master at Tummel Bridge. His account of Swinburne in these letters is worth a library of literary estimates. It should interest all good Lancastrians to know that our admirable playwright, Mr. Harold Brighouse, is a nephew of Harrison's.

When Harrison died a leading article appeared in *The Times*, beginning somewhat thus: "It may seem strange that in this journal should appear a notice of a man of whom probably not fifty of our readers have ever heard." It dealt with the few matters of which record could be made, and quoted a striking saying of Jowett's about him. Some one having asked who "this Harrison" was, "Give him," said Jowett, "six months' health, and all Europe will know his name." That health never came, and there will soon be no remembrance of a man who made at Oxford a ripple in

the stream of time, and might with the favour of the gods—as some thought—have become Prime Minister of England.

The men whom I knew at Balliol were a happy and a friendly lot. But I am not prepared to say that we had few disadvantages. In the first place, the college buildings were devoid of either inspiration or solace. With the possible exception of Exeter, Balliol is surely the ugliest college in Oxford. The front quad is mean and squat. It contains the chapel, which ought to be pulled down, as was recently proposed. On two sides it has modern buildings, which should also be pulled down. These abominations had been substituted for good things. Old members of the college still speak of the former chapel with admiration. Lord Loreburn, a few years ago, restored its beautiful old Dutch glass to the present chapel. The old front quad, according to the prints, was a good building of the simple type, which seems so difficult to reproduce. If it was worn out, it should have been simply copied by a good architect. Sir Aston Webb has done this successfully at Brick Court, Temple. But we have at Balliol the usual Edwin Waterhouse railway-station hotel, with all the rooms undersized and uncomfortable. The back quad is spacious enough, and with good buildings might be impressive. Some of the quite modern buildings are to my eye very successful ; but in former times we had nothing that was really noticeable, and much that was very new. I was the first occupant of my own set, and the new hall was being built next door all the time we were there. Jowett, like many distinguished people, had a great liking for bricks and mortar. But all the work done at Balliol in his time seems unfortunate. Compare, for instance, the front quad

of Trinity, next door, which was also built in my time.

Again, the college was not at that time, as many thought, at all well run. The Master has been described as much as most people, and has now become a myth which is a travesty. Much of this is the result of the official life. It was written in two halves by two entirely different men. The first and most interesting period was dealt with by one of Jowett's failures, who worshipped him blindly; and the public life of his later years was treated by a man who, with many admirable qualities, was unfortunately prevented by bodily infirmities from going into society. Neither of them had anything in common with the Master, whose leading characteristics were two—he had an iron will and an iron constitution. He would work all day at college work, entertain people at breakfast and dinner, work at Thucydides or Plato from ten to midnight, and then write a dozen letters before he went to bed. But he wanted his own way in everything, and endeavoured to do too much. Thus the furniture in our rooms belonged to the college, but it was rather ugly and rather dear. During my time the college, under his auspices, began to supply wine to the undergraduates, in order that the wine merchants might not fleece them. But neither price nor quality was attractive. Also we ordered our dinners at breakfast time from a menu stuck up at the bottom of each staircase. This was with a view to economy, but the catering was not very good, and the rations were small, hence, when the list said, "Roast beef, boiled mutton, turkeys, geese," a scholar ordered for himself "Turkeys," and was followed by another humorist, who wrote down: "Mr. Godley, goose enough for two." This was

unkind to my old friend, the public orator, but it amused him. In fact, the Master, in life as in teaching, was fertile of experiments, of which some failed.

So with the teaching. All the teachers were Balliol men, and pupils of the Master. The tutor in Moderations, Mr. de Paravicini, was a brilliant example to scholars who were aiming at University prizes, but unsuited to ordinary undergraduates who wanted a respectable class. Mr. Green did not take much work in college at that time. My own tutor, Mr. A. C. Bradley, I cannot praise as I should wish to do, for he is still alive. But he was not long there, and was only one. Mr. Nettleship was greatly beloved by many, but was depressed at times and would not be decisive, nor had he the teacher's touch. The man who had a genius for teaching left us for another college in the middle of my time. Jowett himself then took very little work from any one.

Mr. H. J. S. Smith taught some mathematics. He had only two distinctions to his name in the Calendar. As an undergraduate he had obtained the highest prize, the Ireland, for classics, and two years afterwards had added to this the highest mathematical prize, the Senior Mathematical Scholarship. Devoting himself to the most recondite mathematics, he had attained European reputation, but being apparently devoid of all ambition, he helped the college by teaching rudiments. He is much in evidence in the biographies of thirty years ago. He also knew the proper way to carve a boar's head, and the right beer to drink with it. On one occasion he had examined for a mathematical scholarship at another college, when there were four candidates, one of them a pertinacious little Scotchman, who was a Balliol commoner. Having failed, this man sought from Smith

an explanation. "Oh! you did very well," said Smith. "I remember being pleased with your work." "But was it not up to scholarship form?" "Oh! yes, I think so: as I said, I think you did very well." "But why did I not get the scholarship, then?" "Well, in fact you all did very well—especially the other three." When I first went to London, I saw H. J. S. Smith sometimes at the Old Savile Club in Savile Row, where he sat at dinner, big, bland and benevolent, with a bald head, great spectacles and a huge silken beard, rather like Anthony Trollope "expressed in terms" of civilised behaviour.

I had the privilege of taking a few essays to Mr. Green. He was not lecturing then, and this to us was a permanent loss. I went to his house with my work, and he used to sit over the fire, "tying himself into knots." He beat his music out with some difficulty, and the music itself was not an obvious melody. I once said that I was afraid some phrase of mine was not very clear. "I am afraid," he said, with a rueful smile, "that in philosophy clearness of thought is often in inverse proportion to clearness of expression"; and then, seeing me a little dashed, said in his pleasant way, "But never mind, come and have some tea downstairs." All the term he continued to criticise. At last I produced an essay of which he said, "Well, I think that is a good essay"; and that is the highest praise I ever got from him—but it is still precious.

Kant discovered that among the strange things to be found inside a man's head was the categorical imperative; and M. Comte was annoyed to discover that in the rope which bound together the sequence of historical events was an independent strain which must be recognised as "*la morale*." You did not need

to know Mr. Green long to know that character cannot be resolved into any formula of pleasure and pain. A good man is a good man, and a bad man is a bad man ; and this is an ultimate mystery of the universe which cannot be twisted into anything else. To be a good man was to live in the spirit in which Mr. Green lived. That was all, but it was also everything. In the same way, perception and knowledge are the creation of the inward spirit. Locke's sheet of white paper upon which the external world makes marks is a travesty of the facts as disclosed by our own consciousness. When he was a boy at Rugby, Green said to a comrade, with whom he was walking over a bridge on Sunday, " The bridge that you see is not the same bridge that I see." The boy, thinking that Green's oddness was becoming insanity, reported the remark to his house-master. The house-master must have been worth his salt, for he passed the remark on to the Headmaster, who soon discovered that they had in their midst a philosophic genius. What the architect sees, what the painter sees, what the motor driver sees, is what each would call a bridge. But do they see the same thing, and if so, in what sense ? In Mr. Green's introduction to Hume is to be found all the law and the prophets on this matter, and it may seem to many that the analysis there given is final.

There is another side to these things. The philosopher seems to be born, not made. Either you are a philosopher or you are not. If you have in you the root of the matter, you may by lifelong devotion attain to a reasoned statement of your position and of the truth that is in you. But the child is father of the man, and the accurate and patient statements which in the end promulgated Green's philosophy were only the full flower of the inspiration with which he spoke when he

crossed the bridge at Rugby. And yet Mark Pattison called him puzzle-headed. Mark Pattison never entered Green's kingdom, and would not have striven to get there ; but perhaps it is a kingdom after all. The author of " Mark Rutherford " advises the world at large to recognise this trouble ; and emphasises the practical wisdom of the plain man who regards the matter as too hard for him, and lives a clean and honest life with his wife and children. There is much in this, but somehow the spirit will beat its wings against the bars of its cage.

Jowett himself, when a tutor, had been in touch with this doctrine, but it was not for him. At one time he would say that Hegel had discovered the secret of the universe ; but when he came to saying that Hegel got to think that anything that came into his head was a law of thought, it was obvious that the Master had fallen from grace. In fact, his practical work as a Master drove these matters out of his mind ; the philosopher became a king, and did not altogether achieve the dream of Plato. It would have been surprising if, even with his endless devotion and loyalty, he had succeeded in doing so. For, in my humble judgment, his organising powers were his weakest side. The writers of the " Life " might have left out a mass of eulogy, in order to discuss a really interesting question, namely, how it was that so exceptional a man succeeded in making not only himself but his pupils extremely unpopular, both at Oxford and in London. In the seventies and eighties it was no advantage to a man in London to be known as a Balliol man. It would be assumed that he was self-sufficient, contemptuous and iconoclastic. This cannot be explained altogether by the jealousy of commonplace antagonists.

To people who wonder now at the reputation of Jowett, two things may be said in explanation. First, he had as good brains as any man need wish to possess. The essays which he appended to his Epistles of St. Paul brought him European reputation. One of these is upon Casuistry. To have chosen so entrancing a subject, and that in connection with St. Paul, was in itself sufficient to show his calibre ; and the courage with which he grasps the nettles is at once arresting. The University of Leyden does not give its Doctorate of Theology for nothing, and Jowett was the only Englishman to receive it for very many years. Another essay in the same volume is on St. Paul himself. The thesis is simplicity itself, namely, that whether you like St. Paul's doctrines or dislike them, the apostle happened to be a genius, whose natural force was only equalled by his spiritual nobility. How far this line of thought may have been previously pursued by others I cannot in my ignorance say. But if fifty people had taken the same line before, this essay would still have been a new and fresh thing in itself. •

The second source of Jowett's reputation was his unselfishness. He was always thinking of other people. I may mention one illustration of this, his strongest characteristic. When he was succeeding in bringing Swinburne back to a life which would not kill him, he asked him to Balliol to meet Tennyson and his wife and the rest of a week-end party. This was a bold experiment, and might have been one of Jowett's failures. With his endless capacity for taking pains, the Master had provided the only biscuits that Tennyson thought he could eat, and the only sherry he thought he could drink.

Possibly the dinner—provided as usual from the

college kitchen—may have had some flaw in it ; at any rate the Poet Laureate was moody. After the ladies had gone the sherry came to him. He poured some of it into a tumbler without tasting and—as the story was told by my tutor—said, “ What muck is this, Jowett ? ” The Master did not hear him, of course, but Swinburne did, and in low constrained tones cursed the man who so treated “ the good Samaritan who has dragged me out of the mire, and brought me here.” When they went into the drawing-room Swinburne caught Tennyson by the arm and, as if continuing an animated conversation, exclaimed, “ Yes, yes, Tennyson, we all know who King Arthur was. That was Prince Albert. But who was Lancelot ? ” and so left Tennyson, shy, clumsy, and unready, to get out of the tangle.

Another story is of an idle commoner of ability giving an extensive wine-party to several young officers from some crack regiment. The night was lurid, and the lamps in the back quad were duly broken by the guests. When they got back to the man's rooms the Master's butler was there. “ To see the Master at 9.45 to-morrow morning,” said he. The chief captain of the officers at once vouchsafed help. “ I will call on the old gentleman at 9.30. It is all our fault. I will explain it to him. He will see it at once. It will be all right.” At 9.30 he duly called, and at 9.40 appeared in the undergraduate's room. “ You will have to go to him,” he said. Being begged to explain, he went on, “ Well, I sent up my card and followed it at once. As I went into the room, I saw the butler give my card and my name to the old gentleman. He was reading by the fire, and put down the card and went on reading. I wasn't going to stand this. So I coughed and went forward, when he looked up and said, in a

tiny voice, 'I didn't send for you. Go away,' and then went on reading." "Well, what did you do?" "Well, that's the odd thing. I did come away, and I think you'd better go to him." The undergraduate went. In the result he was not sent down, but began to work, and did well. It is the common cant that to be a "young Alcibiades" was a passport to Jowett's friendship. In the first place, why should it not be a passport? I knew more than one young Alcibiades who was better company than his critics. In the second place, it sometimes happened that the young Alcibiades, after he had known Jowett, became a young Pericles.

An hour I spent with Jowett may perhaps give a picture of him. He sent for me to take wine with him after dinner. He was alone, and began by talking at length about work, having probably just read my weekly report. He then became very silent, until I said something he did not like, when he became very angry and rebuked me severely. He then desired to put things on an easier footing and chirped for about twenty minutes. First he said that he had seen much of Macaulay, on one of the University Commissions, and that it was a mistake to suppose that he absorbed the conversation; on the contrary, he was eager for knowledge, and was a courteous listener. When the Commission was held Jowett was the cynosure of all eyes, and it may be surmised that Macaulay would wish to hear every word that the new Oxford genius had to say on his own subject. Moreover, Jowett always spoke as one having authority, and not as the scribes. Everything that had to do with any university, in any country, was succulent fish to Macaulay's net. The second subject was a visit which Jowett and Dean Stanley had

paid to the father of the Brontës, after the death of all his children, when he was blind. Jowett first spoke of the marvel that one small rectory should have produced four geniuses ; so he must have included Anne. He then went on, " The old man knew who we were, and was clearly much flattered, though he would not say so. Dean Stanley said, ' You will understand the reasons which have brought us here.' ' Yes, sir,' he replied, ' reasons which give me much pleasure and much pain.' Then, rousing himself, he went on, ' Mrs. Gaskell came here after she had written my daughter's life. She wanted me to flatter her, but I would not do that. I said, Madam, I have not had your book read to me—which was not true, he interrupted—but the newspapers tell me that you describe my shooting with pistols at my own back-door, and say that I am a rather eccentric kind of person. You'll allow me to say that, if I had been as concentric as most people, I should not have had those daughters.' "

I believe that for a few minutes I once saw the real Jowett. The scholars saw little of him ; he heard reports of them every week, and left them to their tutors. There was a man among them, long since forgotten, who had great gifts and very little else. His character was not too strong, and his outlook often very unhappy. He had among his friends one or two hard-headed people who did a good deal of drinking, which was bad enough for them, and disastrous for him. I got him away from them and into my own set, among whom were some very cheerful and sane people. This was really what he wanted, and he pulled himself together. So I was glad to have got the better of his false friends, whom I had other reasons for disliking. The matter had very much passed from my mind, when

one day I was stopped by the Master in the back quad. I had been idle that week and he rebuked me for this, and then hesitated and, changing his manner, said in a low, hurried voice that he wished to thank me personally for what I had done for my fellow scholar, and went on to mutter that such things (as I heard his words) helped him to carry the burden of his great responsibilities. In a moment this mood had passed, and he talked of some other matter in his usual detached way. I have no notion how he had got to know anything about what I had done, for naturally it was done quietly and as it were secretly, and was, after all, only a matter of taking a little trouble. But for a moment I think the mask was up and I had a glimpse of his real self. Afterwards, when I returned from London to Oxford, he always wished to see me, and after my marriage was very kind to my wife. But I never got from him any repetition of the mood of confidence.

It will be seen from the above reflections that the undergraduate at Balliol in the seventies was not altogether to be envied by the inhabitants of, say, Trinity or Corpus or New. He would perhaps sometimes have willingly migrated for a time to the blue coat and yellow waistcoat of the Trinity Wine Club or the desserts of the Junior Common Room of New College.

CHAPTER VI

OXFORD UNIVERSITY

THE study of the classics meant to my generation much more than the study of literature. We used to spend on our own Latin and Greek composition a very great deal of time, and it would seem now as if we might have spent less. To many men with no particular turn for literature and language it was not necessary or perhaps useful. I can recall men who plunged with delight into political economy, or at any rate, Smith's "Wealth of Nations." Here they found what verse-making could never have given them, and perhaps gifts for practical work of which they had previously been completely unconscious.

But the art itself, though recondite and baffling, was very attractive to any man to whom language was something for its own sake. Among my contemporaries were several extremely good "scholars" in the technical sense. On one occasion the Gainsford Greek Verse Prize was given for "comic" iambics in the style of Aristophanes, and the English was the "Rejected Address" by the imaginary William Cobbett. This novelty was devised by the late Dean Liddell, of dictionary fame, in some happy moment. It was right out of the line of our regular work, and might have attracted no one to compete. I went in chiefly because Aristophanes was a favourite and partly because the *tour de force* was attractive. Having spent much time and labour on my verses, I was beaten on the post by

my friend and fellow scholar, Mr. A. D. Godley, the present public orator. If I had known he was going in, I do not think I should have written. For he could put anything in reason into excellent Latin or still better Greek. When he was a Fellow of Magdalen he put the menu of a ball supper into Aristophanics.

A schoolfellow of his, Armine T. Kent, had a wonderful skill in this art. Kent, who was our exact contemporary, lived his own life and, in the intervals of enjoyment, devoted himself to Latin verse, but eschewed both Vergil and Horace. Lucretius he admired, and Catullus he adored. Indeed, he was a sort of Catullus himself, bright, handsome, humorous, and the sworn enemy of all authority.

At that time a clergyman, called Kebble, had published a translation of Gray's "Elegy" into Latin elegiacs, and the great Professor Munro had, in *Blackwood's Magazine*, cut these verses into little pieces, with all the brutality of the old-fashioned scholar. One line particularly roused Munro's rage. Gray, as is well known, had written "The paths of glory lead but to the grave"; Mr. Kebble wrote, "*In tumuli fauces ducit honoris iter*"; Mr. Munro wrote, "This means, if anything, the road of a public office leads into the jaws of a burrow." Of course the best of Latin may be made ridiculous if you turn it into the worst of English. But Mr. Kebble's version was pedestrian enough, and Mr. Munro's own effort was laboured. Parts of this article I read to Kent, one lovely Sunday morning when he was lolling in his armchair, his lounge suit the envy of the college, his rare smile and intermittent paradoxes the perfection of entertainment. He was greatly delighted, but when I came to "the paths of glory" he sat up, saying, "I did that myself

the other day." Whether this was true, or whether he did it there and then, I cannot tell. In his careless way he dropped out the words, "*Fama regat currum, stat tibi meta, mori*" ("Glory may drive your car, the goal before you is death"). He has brought in the circus, that centre of Roman life. The hero is in the car with his driver, and the driver is Glory. In front is the black pillar which, as in the real circus, marks the end of his course. It stands up dark and clear before him, as his charioteer hurries him to the victory, which is his death.

Kent, liking my praise, went on to quote another version of his own. He always warmed to approval and, dropping his shy reserve, became delightful. The second rendering was of Wordsworth's lines, "A maid whom there were none to praise, and very few to love." The Latin was, "*Nulla suæ virgo norat præconia formæ, et modo non nullam norat amicitiam.*" I thought this extremely bad, and told him so. He roared with laughter, and admitted that he was captivated by the neatness of "*modo non.*" I told him he had turned poetry into prose; this delighted him still more.

He lived till he was about forty, and published from time to time a number of beautiful things, in English verse and prose. Some of these, with other *reliquiæ*, were published at his death under the title of "Otia." One of his slighter things reveals his charm as a man and a writer. A friend, Mr. Peto, had asked for an inscription for a sundial, and Kent sent him an elegiac couplet.

"Effice, lux, tenebras; umbram da, Phœbe, petenti.
Ipse, petens umbram, sis sine nube, Peto."

The first three words make a paradox worthy of Ovid;

and the playful grace of the pentameter would have pleased Simonides himself, if he could have read Latin.

Kent purported to hate our philosophical work for the final schools. He once wrote an essay for Mr. Nettleship in which he described what he imagined a philosopher of Nettleship's school believed ; and having done this, ended by hoping that such a philosopher, when walking out, might, like Thales, fall into a well, and that there might be some Thracian girl, *Θράκῃς*, standing by to laugh at him. Even Nettleship, to whom tolerance was a disease, gasped at this ; and said, " Oh ! I say, Kent, not really," which from him was a rebuke. Kent had no turn for reasoned thinking, and moreover would never work in any direction in which he was told to work. As he extended his contempt from the philosophers to the historians, our fears for him were great. All went badly in the schools. One of the papers at that date was an English essay, and many a man had snatched a First by writing an original essay. We had one subject only, Sympathy. It is difficult to see what sort of an essay was wanted. The good and commonplace man would, of course, produce a tract ; and thus stabilise his position in the second or third class. The would-be intellectual, avoiding this obvious trap, would find he had nothing to write about. Kent alone solved the problem. Five minutes after the papers had been given out he handed up a single sheet of paper to the examiner in charge, and strode out with a flushed and angry face. He had written, " Sympathy is human, apathy is divine." They might have given him a class for this sentence, which, excellent in itself, showed that he was not unacquainted with Greek thought. In fact he either got a fourth class, or was " gulfed."

His book, "Otia," is introduced by an account of him written by Mr. A. A. Baumann, one of the ornaments of our year. This account is just what Kent's friends would wish it to be, written in English which he himself would have envied. But English which was not good English could not have been written by Mr. Baumann.

Another of our "scholars," Sidney Hamilton, gained the Hertford University Scholarship in his first year, and after that rather passed into the background. His specialty was what we used to call "lyrics"; you had a piece of lyrical English poetry, and could put it into any classical metre you liked. He confided to me a trade secret in composing "lyrics." As "lyrics," for anything I know, may still be set in the University scholarships, I pass the recipe on to present and future scholars of Balliol. Hamilton, having read his English, would jot down five or six words which would be effective in its rendering, and would choose the metre which would admit the largest number of these felicities.

We were all defeated in our second year in the Ireland scholarship, together with men in their third and fourth years, by a quiet, steady exhibitioner of our year, called Scott. He came from Christ's Hospital, and had been thoroughly taught. Mr. Bywater was one of the examiners, and he set us papers which disclosed to Oxford tutors the range of his own knowledge, but were too difficult to form a fair test. A recently discovered fragment of Pindar, presumably corrupt, and an essay on coal, in very bad late Greek, by a party called Theophrastus, were two of the puzzles set before us. Scott got through the whole series of translations with hardly any mistakes, and this was irresistible on any system of marking. But the Oxford tutors resented

Mr. Bywater's *tour de force*, and told him so. I should add that the Theophrastus mentioned above was not the author of the "Characters," but another person of the same name, as the theologian said, when distinguishing St. John the Apostle from St. John the Evangelist, with a view to settling doubt.

Mr. Bywater was, of course, the future professor of Greek. On one or two occasions he saw me in his own rooms. I remember the noble appearance of the bookshelves and bindings, and an alcove in which was old painted glass of great beauty. He greatly admired Mr. Pater, and dressed in the same neat but unusual way, rightly making the necktie the *clou* of the costume. He had a pretty wit, which he disclosed in his lectures. When the late Mr. Onions, of Christ Church, was about to marry, some lady said to Bywater that Mrs. Onions would be an ugly title for a bride. "We might call her," said he, "the Lady of Shallott."

On the morning of the first day of this Ireland examination, Hamilton, Godley and I, who lived on the same staircase, breakfasted together to "take a sors"; that is, to open the "Corpus Poetarum Latinorum" at any page, and see if it contained a prophecy of the winner of the scholarship. This was our custom. We were allowed a whole page, and except on this occasion made nothing of it. It was rather a religious observance than anything else. At this time I opened the book, and opened it at a page in Claudian, the best of the late Latin poets. My eye ran down the page, which described the wars in Britain. I came to a line which ran "*totam cum Scotus Iernen movit*," meaning, that is, that the Scotch tribes overran all Ireland. I said to my friends, "That means that Scott will get the Ireland," and, as we all thought our chances much

better than his, my pleasantry was quite acceptable. When the result came out, we suddenly remembered the "sors." I do not expect any one to accept this story as true. The late Mr. Justice Wright, when I recounted it, said, in his own special manner, that he did not believe a word of it. I can only say that my memory presents the story to me as I have told it. In any case there is in the classics a passage which gives in terms the name of a winner of the Ireland scholarship, and prophesies his success.

We had at Oxford at that time Robinson Ellis, the scholar who strove to do for Catullus at Oxford what Munro had done for Lucretius at Cambridge. He lived a monastic life at Trinity, and was absorbed in Latin scholarship. He published one of the oddest books in the world, a translation of Catullus into English, in the original metres, and with the quantitative rules of Latin poetry. He has even rendered the "Atys" into English galliambics, although Tennyson in his "Lucretius" had tacitly admitted that the experiment was impossible.¹ Ellis sometimes got a slight effect; thus he rendered the famous line, "*ubi cerva silvicultrix, ubi aper nemorivagus*" into "Be with hinds that haunt the thicket, live in hursts that house the boar." But hurst is an archaism dragged in, because there must be no consonant following the previous word; and the phrase "that house the boar" goes away from the effect of five short syllables; it is, in fact, an ordinary double iambic, and "live in hursts that house the boar," with an additional syllable,

¹ Lord Tennyson did well to admire the "*frater ave atque vale*" of Catullus. In the "Peleus and Thetis" are two lines worthy of a Greek. One is the description of Ariadne in her grief: "*Saxea ut effigies bacchantis*" ("Like a bacchante cut in stone"); the other the picture of Prometheus attending the marriage of Peleus and Thetis: "*Extenuata gerens veteris vestigia culpa.*"

becomes the first half of a line. Thus, if Ellis had said first, "Live in hursts that house the porker," and then, "be with hinds of agility," he would have produced a true galliambic, poetry apart. Is it too fanciful to suggest that in this strange and subtle metre the first half of the line is meant to be manly, and the second half womanish ?

The great scholars who practised this art in the last century attained an astonishing ease and felicity, particularly those who had been boys at Shrewsbury. Canon T. S. Evans seemed unable to go wrong in Greek, just as Mr. Baron Parke could not go wrong in law. "They that go down to the sea in ships," begins the Psalm. Ὅσοι βεβῶτες πόντιοι νεῶν ἐπὶ, replies Mr. Evans, much as Euripides might have written. "Oh ! swallow, swallow, flying, flying south," cries Tennyson. "*Procne, Procne, volans, volans ad Austrum,*" echoes Professor Conington imperturbably. Mr. Shilleto seems equally good in either language. Greek was supposed to be his province ; but you look into the Shrewsbury book, "*Sabrinæ Corolla,*" and find the English beginning, "Let me not have this gloomy view About my room, about my bed," and on the other side the rendering beginning, "*Ne mihi, ne, precor, hæc species maestissima visu Pervolitet thalamum pervoliteturum,*" and at the end the magic initials R. S.

Rumours of Shilleto used to come to Oxford. It was said that at the beginning of one of his courses he used to announce, "You can say anything in Greek except ὁ γυνή, the language is so flexible." At his next lecture he would say, "You will remember gentlemen, that at my last lecture I stated that you could say anything in Greek except ὁ γυνή. Last night I happened to be reading in Xenophon's

“Hellenica” the account of the young men at Thebes who disguised themselves as young women, and were admitted to a banquet of their Persian conquerors, at which they threw off their disguises, and slew with their daggers all the revellers. Oddly enough, Xenophon speaks of these disguised young men as *οἱ πάρθενοι*, and no doubt if the circumstances had required that married women should have been there, and not maidens, he would have said *οἱ γυναῖκες*.” The device of reading the “Hellenica” after the first and before the second lecture went on for some years. But of such devices great teachers—and indeed great preachers—are made.

Shilleto had a European reputation. Early in life he had published an edition of one of Demosthenes’ speeches, “De falsa legatione.” No one knows what the speech was about ; it was the notes which counted. In one note he collected some eight or ten corrupt passages from all Greek literature, in which odd combinations, say *πομα* and *ποματε* and *πομαλλον*, appeared and were meaningless. Out of this welter Shilleto had extracted a combination of Greek particles *πω μαλα*. Both these particles, as Greek scholars are aware, are real words, and Shilleto asserted that this combination had been lost sight of and misunderstood by the scribes. The combination was said to mean “nay rather” ; and, as most combinations of Greek particles seem also to mean “nay rather,” and “nay rather” means anything you please, the note had a great vogue, and was attacked and defended on the Continent with vigour. I do not know what has happened to it now. Mr. Shilleto in his old age used to express a tentative hope that he might go down the stream of time on *πω μαλα*, admitting fully that the bark was a frail one.

There was a scholar of Balliol in my time, "a pleasant hand," as Charles Lamb said of Manning, who on these principles has had fifty years of local immortality, and has become a myth. He was examined by Jowett at collections—our term examination—and was doing badly. Jowett took him from one contemptuous question to another, and at last said: "What does Aristotle say about a man being happy on a rack?" Now this was very insulting. For Aristotle, in an early chapter of the first book of his Ethics, discusses whether a man of virtue can be indifferent to pain, for instance, torture by the rack, and arrives at the sensible conclusion that he may, if he is really virtuous and the pain is not too severe. So the scholar said in a humble tone, "I think, Master, he says that a good man can be happy on a bad rack." The answer is now attributed to a nervous commoner in his pass moderations. *Sic transit.*

This same scholar has since produced one or two pleasantries which I remember. We all went in together for a Trinity fellowship, which was won by Mr. Mann, a scholar of Exeter, a good deal older than most of us, who became a tutor in the college. Balliol vanity was a good deal dashed, but this scholar cheered the group which had just got the news by quoting from "Aristotle" a passage which in itself is not intelligible: ὡς περ ἄνθρωπος ὁ τὰ Ὀλύμπια νενικήκως. τούτῳ γὰρ τὸ ὄνομα μικρῷ τοῦ κοινοῦ διέφερε. This passage he translated to mean, "As in the case of Mann, who got the Trinity fellowship, for his name, Mann, differed little from the general name, man." And so we dispersed.¹

¹ The mystery of the passage is still unsolved. So there is something left for future scholars to do. Mr. John Purves, of Balliol, once explained to a pupil that Greek accents had not been much studied in the past, adding piously: "But we should be tha-a-ankful, for it leaves something for us to do."

At one of the London dinners of old Balliol men this same scholar was deputed to propose the health of the two guests of the evening. One of these men was a distinguished Civil Servant, who had been a great oar and a great coach on the river in his day. It was remembered that as a coach he was renowned for the strength and irregularity of his rebukes. The proposer, pitching on this topic, said, "He will be glad to know that his successors have handed down to our time his noble practice of healthy vituperation. *Et quasi cursores vitai lampada tradunt.*"

I feel sure that the author of these sayings will take in good part my repetition of them here.

Several of my friends took a hand in making Ruskin's road at Hinksey. Ruskin was then delivering lectures as a professor and had beautiful rooms in the Fellows' Building at Corpus, where he had surrounded himself with beautiful things. I was taken to two of his many breakfasts, and was glad to earn them by digging twice at the road, and breaking two hammers on the stones which went into it. His conversation, which was a monologue, was very fascinating. He threw a charm over you which lasted for some hours. He spoke with so much earnestness and in such a charming and depreciatory way that his matter seemed like gospel. One morning he declaimed about John Stuart Mill and the political economists, and gave us a definition of wealth which lasted twenty minutes. Characteristically enough, he got on to it in this way. He said (in effect), "These men know nothing of their own false science. Mill himself, in his 'Political Economy,' gives no definition of what he means by 'wealth.'" A scholar of Pembroke, who was then reading for Greats, a very solid man, proceeded to quote such a definition from

Mill. "Oh!" cried Ruskin, "that is not wealth. Wealth is . . ." and off he went at score. This was rather unkind to the scholar of Pembroke, who had only acted, as he thought, for the best. However, he got quite a good second a little later.

The real pleasure of Ruskin's company to an undergraduate was that he would pick up a little picture, or a sketch, or perhaps a bit of jewellery, and point out to us the beauties as he saw them. Those who know seem to think that his first impressions in artistic things might probably be right. He lectured then in his famous sky-blue tie to very large audiences. But his vogue soon passed.

As we approached our final examination the Master tried on two of us the experiment of sending us over to the coast of Normandy and Jersey, for the sake of the sea air. We sent written work to Oxford every week. No doubt in the summer term Oxford is a hole, but we lost much in the way of personal tuition. We were away about a quarter of the year. Having nothing to do but to work and bathe and walk, we worked very long hours. If a man has the "Ethics" of Aristotle for the morning and the "History" of Thucydides for the evening, he can in a bracing climate and at the right French hotel achieve much happiness and profit. I still remember the thrill with which I learnt that "I, Thucydides, who wrote this book, arrived in Thrace with a few Athenian ships," and was unsuccessful. Edward Fitzgerald records in his letters a similar emotion.¹ At Jersey our only excitement beyond dangerous bathing was that Victor Hugo, an exile in

¹ Aristotle had been at one time tutor of Alexander the Great. "Two things," said Alexander, "remind me that I am mortal, sleep and love." I doubt if he would have thought this, if he had not been trained by Aristotle. Peter the Great would never have said it.

Guernsey, was diffusing Republican poison there in a paper called *L'Homme*. Everybody called it Lummm, and refused to buy it.

We returned to Oxford, and just before we went in learned that a former tutor of ours, who had migrated to another college, was going to be one of our examiners. I met him one afternoon near the Union, and hardly knew what to do. However, I took off my cap and went across to him and said that I had been away three months, and that I hoped he was very well. He eyed me all the time, obviously with amusement, and finally said, "No, Ashton, nothing but current coin of the realm will affect my vote in your case." He was always very kind to me after an occasion when I had taken him an essay written in the same book in which I took notes of his lectures. He had taken the book into his own hands, and said, "Why, you mix up your essays and my lectures!" "No, sir, your lectures are on the right hand, and my essays on the left hand." "Ha! the sheep and the goats; very well." I would have given much for two years' teaching from him.

I got through my own troubles, and thereafter took three men on a reading party to Ullswater, or rather, they took me. All these men are now distinguished and well-known people. So I will say nothing about them. When I left, I got into a char-à-banc to drive nine miles to Penrith. There were two or three ladies in the carriage and a middle-aged, brilliant-looking person, who at once spoke to me. "You've been on a reading-party there?" he said, pointing to the house. "Yes." "With a very clever young tutor, I'm told." This was flattering but embarrassing, as Mrs. Nickleby felt when her lover carved her initials on the pew door during Divine service. I had to

explain. "Very glad to have paid you an unintentional compliment. John Morley told me. I have been staying with him at Patterdale. My name is George Meredith." I did not like to ask how Mr. John Morley knew of my existence. So he went on, obviously determined to put me at my ease. It was very fine monologue. I remember two particular matters. One was a story to illustrate the thesis that there was much moral corruption in the ranks of the aristocracy. This story is not itself reportable, but he told it with a good deal of personal feeling, as if he had a grudge against the nobility. The other matter concerned Carlyle. He said, in effect, "Carlyle was always trying to get me to write history. Novels were no good. 'Ye must write heestory.' So one day I said, 'Carlyle, do you know what historians remind me of?' 'No.' 'They are like a row of men working in a potato field, with their eyes and noses down in the furrow, and their other end turned towards Heaven.' I thought he would be very angry; but he only listened, and sighed, and then said, 'Well, perhaps that's varra true.' He never asked me to write history again." We walked up and down Penrith station while he told me this story, very carefully, to get the right dramatic effect. His fancies crowded thickly upon him, and you seemed to see his imagination working, so clear was his large eye. For a few hours he was a radiant vision. He once, in a case before Mr. Justice Mathew, proved to be a brilliant witness, as an expert "reader" for one of the great publishing firms, I think Chapman and Hall.

James Martineau on one occasion was staying at the Master's, and I was asked in to "wine." No one else was there, and Martineau was describing scenery to Jowett in beautiful and simple language. Suddenly

there was announced the man of all others whom I wanted to see and hear, Mark Pattison. I thought the two treated him a little *de haut en bas* ; and indeed they both exceeded Pattison in that "efflorescence of moral beauty" which, as Mitchell said, made the future Dean Church a certainty for any fellowship. But the scholar was revealed in those wasted features, those compressed lips, that bent figure, that great forehead with its scanty locks. The smile was his own, unless he had borrowed it from Voltaire. Martineau gave in a few sentences a picture of the view from Waterloo Bridge on a summer evening. It was a marvellous piece of word-painting. "Yes," said Pattison, "and with the shot-tower full in the middle." The others smiled indulgently, as at a gamin who might be tolerated, and I thought Pattison flushed slightly.

His "Memoirs" should be by the bedside of every lover of learning. The account there of the intrigue which at first robbed him of the Headship of Lincoln is nothing less than thrilling. There seemed to be a shot-tower in every view that Pattison saw. But what powers are revealed in the few works he has left behind him ! In the "Memoirs," speaking of Oxford, he says, "The assault from without is aided by the reappearance within of an *a priori* philosophy, which, under various disguises, aims at exempting man from the order of Nature, and erecting him into a unique being whose organism is not to be subjected to the uniform laws which govern all other being that is known to us." Greater men than he have believed in personal immortality ; but if the other side want a profound thought clothed in perfect lucidity of language, let them pin their unfaith to the masterly monotone of that mordant and melancholy sentence.

Mr. W. H. Pater was a figure that loomed very definitely in Oxford in those days. I met him some years later in the Brasenose Common Room on two occasions. He used to dine there on Sunday night, and to the guests was the soul of courtesy. Knowing I came from Balliol, he told me a story. "I came up," he said, "to Queen's, at that time an inferior college, and there I was, doing nothing. I saw an advertisement one day in the *Gazette*, that the Professor of Greek would take work from any undergraduate who cared to bring it. I went to Balliol and saw Professor Jowett. He told me to come at half-past eleven at night, two or three nights later, with an essay. I took him my essay and read it to him. He said, 'Come again next week,' and gave me another subject. The next week the same thing occurred. On the third occasion he stared for a long time into the fire, and then muttered, 'I don't know why I say so, but I think you will do something great.' "

Mr. Pater seems now to be associated with the ignorant and sensual æsthetes who, in the eighties and nineties, championed the cause of "art for art's sake." He was, in fact, a philosopher with a very original and difficult creed, with an intense, if special, sense of beauty, and with a delicate humour like the "walnut" tang in La Tour claret. What admirer of the precious school would believe that a favourite position in Mr. Pater's rooms was given to a drawing by Ingres? There came a moment when the walls of one of these rooms were painted a faint lemon. Many followers proceeded to paint everything lemon colour, and ate turtle while Walter Pater got no porridge. It reminds me of a namesake of mine who, being a simple and abstemious bank manager, was also forty years ago the

authority in Lancashire on eating and drinking. Being invited to lunch at a great grouse drive, he felt he must earn his living, and said simply, "There is only one perfect lunch, half a cold grouse and a pint of sparkling Moselle." For that season every one was giving cold grouse with champagne, or hot-pot with sparkling Moselle. That the faint bitterness of the grouse should exactly blend with the faint sweetness of the violet-scented Moselle was an inspiration not easily transmitted. So with Mr. Pater's lemon-coloured room.

Mr. Mandel Creighton on one occasion induced him to examine the essays of candidates for the Merton Postmasterships. This he did, and when the examiners met to select, announced that he had lost his marks. As he had returned the papers and they had been destroyed, the situation was difficult. Did he remember whose essay had struck him most? No, his impression was that they had been a very ordinary and even body of candidates. Would it be any use to read him the names? Possibly, but probably not. The names were read, and at the name of Sanctuary he smiled his faint smile and said, "Yes, I remember the name. It is so beautiful." But with the name the recollection ended. So no more was said, and the election was made. Mr. Sanctuary, in the result, went to Worcester to be under the evangelical Dr. Cotton, who, as Vice-Chancellor, could not find a pen to enable Jowett to sign the Thirty-nine Articles. The then President of Corpus, Mr. J. M. Wilson, a practical Scotchman of Broad Church views, had once occasion to see this Vice-Chancellor on University business. Being kept waiting in the library, he was impelled by mere activity of mind to scrutinise a map of Africa which hung on

the wall. When the Vice-Chancellor arrived, "A had no idea, Mr. Vice-Chancellor," said Wilson, in his broad Scotch and in all good faith, "A had no idea there was so much co-o-al in Africa." "Coal, Mr. President," said the little Vice-Chancellor in some distress, "those are the heathen."

I last saw Pater walking from the Parks past Wadham towards Brasenose, where he was probably going to lecture. He was dressed in a beautiful grey suit, with a high hat, an impeccable umbrella held tightly under his arm, and his necktie (on this occasion of sea-green watered silk) caught in his blue-green scarab. He walked with his head thrust forward and his body bent from the waist, and this with determination, as of one who said: "I do not like walking, but I will make the next stride, whatever any one may say." And so he came along, a noticeable man with large grey face and lack-lustre eyes, heavy moustache and great jowl. There was something Spanish about his look, as if he had been the ghost of Guy Fawkes or the Philip the Fourth of Velasquez. He was between me and the college, and as he passed threw towards me the slight flick of the hand and the slight flicker of a smile which showed his friends that he knew you were there. I thought and think that the recognition was an honour, and Wadham looked down on him with *its* grey face, that Wadham in which Richard Congreve, by sheer force of character, had compelled Frederic Harrison, E. S. Beesley, the two Lushingtons, and two or three other persons of importance to accept Comte's religion of humanity, and believe that genuine immortality was found in fame. Over my left shoulder, through the gracious gates of Trinity, and across its brilliant lawns, I could have seen the court where Newman lived, and

the snapdragon grew to be immortalised, "for remembrance."

So here were three of Matthew Arnold's lost causes to be had for the asking. Nor is it impossible that in the future other new avatars will arise in that university, and other noble and honest men will leave all and follow other torches, in the hope that they, too, are the children of light. For of such is the Commonwealth of Oxford.

CHAPTER VII

CHARLES ELTON

FORTY years ago it was not unusual for men to read in chambers for three years, one in Chancery, two with two Common Law juniors, if you were going to the Common Law, and *vice versa* if you were going to the Chancery Bar. This seems now to be a thing of the past.

The late Mr. Justice Wright, to whom I went with an introduction from our common Master, gave much time to the selection of my teachers. The wisdom of his choice will be apparent when I say that the Common Law juniors were the future Lord Finlay and the future Lord Moulton.

The Chancery junior was a friend of Mr. Justice Wright, the late Mr. Charles Elton. He had not a large practice, and I was his only pupil ; but his business was of a very choice kind, and much of it was the work of a specialist. He was one of the two or three genuine authorities on real property. He had written books both on copyholds and on commons, which were in general use. But manorial law was only the most practical part of his study of tenures, which he pursued partly because it was his special business, and much more because he liked it. The strangest cases came his way. For instance, the Archbishop of Canterbury owned some land in Kent which in course of time got intermixed with other land held by the same occupiers from other landowners. At the time when Elton was

consulted, either the Archbishop or the other owner wished to sell whatever he owned, but no layman could say which fields belonged to either of them. In old times the clergy held from the King by tenure of "*franc-almoign*" or "free alms," and did not pay tithes. Elton inquired if any of the fields were tithe free, and it was found that several of them were. When their acreage was added together, it practically corresponded to the acreage which the Archbishop ought to have had according to his deeds, and to my recollection the title was accepted. Another achievement of Mr. Elton's should be commemorated by Balliol men. Jowett was the Professor of Greek. Christ Church paid him a salary of £40 a year out of their revenues, and refused under Dr. Pusey's guidance to pay him any more. Now this Professorship and the Professorships of Divinity and Hebrew were founded by Henry VIII., who prescribed that each Professor was to have £40 a year. He had also made large grants of land to Christ Church, who were to pay the Professors. Both the Hebrew and Divinity Professors were adequately paid, perhaps £500 a year. The furious controversy is now forgotten. But in the end, Christ Church were driven to saying that there was no proof that any particular lands in their possession were given for the express purpose of providing for the Greek Professor; and further that if evidence were found of any such express charge, the Professor should be paid in accordance with the modern rental value of the lands. Mr. Elton, then a young fellow of Queen's, and getting into practice, went to the Record Office and found the required deed, which gave to Christ Church for the service of the three Professorships lands of the value of £120 a year, or exactly £40 for each Professor. He wrote to *The Times*,

and his letter ended the matter, and Jowett got £500 a year thereafter, but nothing was done about the ten years' arrears.

Elton came of the well-known West of England family whose name is associated with Clevedon Court and, therefore, with Tennyson, Thackeray and Brookfield. He had rooms by himself in Ghancery Lane, a room where he saw his clients, a room in which his clerk copied covenants for title, and a sanctum at the back where he smoked and worked. He was tall, broad and very stout, red-faced, dark-haired, and rather decorative in his dress. From the first day I was always with him in the sanctum. There he lay by the fire in a great arm-chair, always smoking or lighting his pipe or letting it out, with documents and intermixed books on the floor round about him. He very seldom wrote anything except his name, and either to a pupil or a clerk could dictate documents all day. The conveyancing done in this way was dull enough work, but on an opinion it was an intellectual pleasure to work with him. He had imagination, and could find in an old report some few obscure words which represented the principle he wanted (or did not want) to find. He used to quote in Court Norman French from the old Common Law Reports. His enthusiasm was his weakness ; for if the facts, as stated in the case, did not quite come up to the legal position he wanted, he was greatly tempted to fancy that they would ultimately turn out what he wished them to be. About two o'clock he sent his clerk out for a chop and a great tankard of stout, and the work went to the accompaniment of eating instead of smoking. It was not unknown that in summer a "cool quencher" should arrive in the course of the morning to moisten the dryness of the

case in hand. Sometimes an unfinished draft was taken home in a four-wheeler, and I went with it. No man who had ever dined with Elton would fail to dine with him again, if he got the chance. It was not merely that his food and wine were superb, but that his dinner talk was entrancing. One night there was no dinner at home, and he asked for a tavern. My high-water mark was the Gaiety Restaurant, which was part of the old Gaiety Theatre. He treated me to porter-house steak, stout and toasted cheese. The question of billiards then arose. Elton, saying he had not played for years, made thirty-five in his second break. He then went on playing (I think at last with the marker) till the place closed. The next morning he returned to his copyholds, much refreshed.

An opinion of his, which occupied him for a month, dealt with the question of the ownership of coal in a manor in Durham. The opening words were characteristic: "The history of this manor falls into five periods, four before the Statute of Quia Emptores and one since." The periods before Edward I. might seem negligible. But in fact an action was fought in which they were of importance. Unfortunately the Statute of Limitations got in the way, and blocked Mr. Elton's hopes. The opinion was an exhaustive treatise on the past history of some dirty colliery or other, and may have consoled the plaintiffs for the loss of the action.

Mr. Elton was one of the counsel in the Epping Forest case, and never ceased to praise Sir George Jessel for the manner in which he tried that most complicated case for days and delivered his judgment forthwith. This from Elton was much, for he was sceptical of men who incidentally came into his preserves. But Sir George Jessel seemed a specialist in all law. In

one of these cases some counsel quoted from Aleyn or Bulstrode, and was beginning to be explanatory. "Oh ! I know the case," said Jessel, quite simply. He never said anything for show.

Another of Elton's cases related to the commoners' rights of taking wood in Ashdown Forest, and was tried before Vice-Chancellor Bacon. Sir Henry Jackson, Q.C. (who was later appointed a King's Bench judge and died before taking his seat), appeared with Mr. Elton for the lord of the manor, and the tenants' counsel included Sir William Harcourt. He must have been interested in commons, for he then practised very little apart from his work as Solicitor-General. He attended with fair regularity, to the delight of the Vice-Chancellor. He cross-examined quite pleasantly the Reeve, or head-bailiff, who at one time had thought the tenants were right but had changed his mind. The reasons for this were attractive to Harcourt, who discussed "the conversion of the Reeve," pointed out to the countryman that he had been Saul and now was Paul, and generally lightened the proceedings. All this interested the Reeve very little. What interested us all, including the Vice-Chancellor, was a long panegyric on Lord Keeper Harcourt, Sir William's ancestor in Queen Anne's reign. It might have been prepared, and was almost dragged in. I think some compliment had been paid him, when he replied, "And so I ought, as a descendant of a Lord Keeper who, etc."

Elton was concerned in probably the last case concerning "heriots." Under heriot law the lord was entitled to a "best beast" on the death of a tenant, and naturally the struggle had always been whether you could seize the best beast the man had, or the best

beast that could be found on the tenement, or the best beast usually depastured there. A runner for the Derby once either escaped or fell a victim to the custom. Elton failed to get a prize bull. The late Mr. Justice Bray once claimed a heriot successfully. In practice the forfeiture was turned into an arranged amount of cash.

Elton had a rival in the Common Law, Mr. Trevelyan. To him a case was once brought involving the one question whether under a form of tenure known as "customary freehold," minerals near Barrow, worth half a million, belonged to the lord or the customary freeholder. That the country solicitors should send Mr. Trevelyan a page of instructions and three guineas was the natural commencement of the investigation. At the end of a fortnight the London agents asked for the opinion. Mr. Trevelyan's clerk said ten guineas were necessary before Mr. Trevelyan would untie the tape. At the end of a month the message was that, if Mr. Trevelyan was hurried again, he would send the case back. Fortunately the London agents were sensible people, and in time the invisible counsel sent a list of documents which were to be looked for in the Record Office, translated, and put before him. Having got these documents, he kept them in his cave, and presently produced a further list, intimating incidentally that his fee was now a hundred guineas. The solicitors, with excellent judgment, got the documents and agreed the proposed fee. The vast masses of material having been put before him, Mr. Trevelyan was no longer insatiate, and announced that in exchange for two hundred and fifty guineas he would in three weeks produce an opinion. The exchange was made. The opinion was in favour of the party which had taken it. The other

side were informed that "counsel's opinion" had been taken. Being told it emanated from Mr. Trevelyan, they asked if they might see it. Continuing their course of perfect good sense, the agents sent the opinion forward. It came back in two or three weeks accompanied by a letter saying that it seemed conclusive, and no proceedings would be taken. Thus, two hundred and fifty guineas saved one side half a million of money, and the other large amounts for costs.

I often saw Mr. Trevelyan in Groom's coffee house at the top of Middle Temple Lane. I used to pity the disconsolate old barrister who always had coffee and a muffin about half-past three in the afternoon. I therefore asked a friend who he was, and was told that he was the finest "pure" lawyer at the Common Law Bar, that he had played for Oxford and was the finest leg-hitter of his day, that he had gone to the East, had married a Mahomedan wife, was probably a Mahomedan himself, had no furniture in his house except cushions, and dined off the floor every night of his life. So my bright friend romanced, for even in those days gossip was not unknown in the Temple. The hero himself was short, with a large head and white hair, and seemed far too fat in body and legs to have ever hit anything anywhere. But his name appears in "Wisden" under the right initials at the right period.

When the first Christmas vacation arrived in my pupilage, Elton asked me to his country house, and thereafter I spent several vacations with him. He was writing his best book, the "Origins of English History." My part was as usual that of the scribe, and most of the manuscript of that book was in my handwriting. To write in Chancery Lane was one thing, but to write at Whitestaunton Manor was another.

This manor house, whose beauty was worthy of its lovely name, lay near Chard, in Somerset. It was not a large house, two stories in height, built entirely of grey stone with mullioned windows and grey roof. Most of the rooms were panelled, and the arms of Protector Somerset in the drawing-room fireplace dated the building and disclosed its builder. To the west and south were such hangers as White of Selborne describes, and a little village with its little church lay immediately to the east. The library was on the first floor, with three windows looking west and one looking north. Here my morning's devotion earned me my afternoon's delights ; nor were the delights too easily earned. The author, burrowing among his books, would throw out a brilliant sentence which was duly written down and read out. Fears would arise ; flippancy must be eschewed ; accuracy must be ensured. Thus that which promised well, with the assistance of suggestions, half accepted and half rejected, would end in a drab sentence which did not satisfy ; and then *da capo*. If Elton could have written as he talked, he would have attained some part of the success of which he dreamt.

There were always visitors in the house. Lord Bowen and the future Mr. Justice Wright were often there. Mr. and Mrs. Andrew Lang came there more than once ; for Lang and Elton had common interests in prehistoric man. There also came Mr. Sanders, whose style dominated the *Saturday Review* in its classic days, and was not reproduced in his edition of *Justinian*.

The estate had been left to Elton by an uncle who was a miser. One evening at dinner, warmed by some mulligatawny soup, he revealed that the inheritance included a bin of Waterloo port which at that date

would be about seventy years old. His uncle could never bring himself to taste this vintage, and in his old age had driven a hot-air pipe from the kitchen straight through the bin to the bedroom in which he lived. In the result, the wine was sometimes wine and sometimes white vinegar and ashes. "I think we might try it to-night." Of some five bottles which were opened, two were capable of decanting. The taste of that wine was "as a lusty winter, frosty but kindly"; its colour was a pale vermilion and bouquet none. Mr. Lang, looking round the dark panelled room, lighted by the great wood fire and the few candles, was moved to extol its beauty. "Yes," said our host, "the English language was born here." "My dear Charlie," said Bowen, "I know you never talk nonsense, but what *do* you mean by that." "Well," said Elton, "my family bought this manor from a family called Brett. In the reign of James I. the Brett in possession was a clergyman who presented himself to this living, and occupied this house. He helped to translate the Bible in the authorised version. His share was the book of Job and the Prophet Isaiah. This is the best room in the house. Therefore I am sure he made it his library. Therefore I say the English language was born here." And so in Pickwickian phrase, having sipped '15 port for the sake of the house, they went on to drink '58 for their own.

Mr. Sanders wrote for the *Saturday*. Mr. Beresford Hope, the proprietor, once a year gave a dinner at Greenwich to all the contributors for the year on the footing that they got in the dinner three guineas, the price of an article. In those days dinner at three guineas a head meant *carte blanche*. A speciality at the "Ship" was duck and green peas after the fish courses. One of the contributors, by way of being important, was

inclined to sniff at this dish ; whereupon Sanders, turning to a waiter, said : " Waiter, what is this ? " " That, sir, duck and green peas, sir." " So I thought," in a solemn voice, " send the landlord here." On the landlord's arrival, pointing to the offending food, " What," said Sanders, " is that ? " " That, sir, why duck and green peas, sir." " And do you think," burst out Sanders, " I can't have duck and green peas any Sunday at home with Mrs. Sanders and the children ? Fetch me an elephant's foot."

Whitestaunton was perhaps most entrancing in summer. Elton was fond of animals which were not cats or dogs. After breakfast, in August, you might walk over a long lawn to the pond, Elton with a basket of scraps to feed anything that came along. A number of rare ducks would scurry to meet him, and subsequently, as became his dignity, an old evil-tempered swan would stalk across the grass. This swan was greatly troubled by Elton, who would put a piece of bread between his shoulders just where the swan could not reach it with his foot, and then ask him to get at it. " There or thereabouts," he would say encouragingly, until the swan began to swear, when he would knock the bread on the ground with his stick. The two Siberian owls lived in a dark shed, and had a liking for raw meat. Often have I seen the Squire, as he was called, walk through the village in his brown tweeds, with a great black velvet hat on his great head, and the two owls gravely walking on each side, or—as my memory says—sometimes standing one on each of his wide shoulders. Mrs. Elton told me that once, when Bowen was nearly killed with his work, she met him in South Kensington, and he, in obvious distress, said that he could not remember her ; to which she replied,

“Whitestaunton, the swan.” He recovered at once, and often afterwards, on meeting her, would begin, “And how’s the swan?”

In the afternoon there was generally tennis. Elton played in the second rank, and his favourite game was against some girl of fifteen with sufficient intelligence to declare that her doubtful strokes were out, and his doubtful strokes were in. Such a girl, unless her “calling” became too blatant, was sure of a happy afternoon. The cool cups standing in the shadow of the house were memorable. Elton was once asked by an innocent lady for his recipe for the hock cup, which he was known to make himself. “First,” he said, “you take a lump of ice, the size of a child’s head.” But this so troubled the mother of many children that the recital broke off. He would never have disclosed the secret.

One evening I remember of memorable beauty. The guests had all gone, and I was sitting with Bowen and Wright on the western side of the house. The sun was behind the oaks which stood on the rising ground about fifty yards away, and all the light was filtered through the foliage. A general election was imminent, and Bowen, struck perhaps by the deep repose of the scene, recounted how he had intended to be a candidate at this election, how impossible it seemed that he should be out of all the tumult and the dust, how incredible was the amount of work which had driven him to the Bench. And then the Squire came round the corner of the house and sat beside him, while four white peacocks, from their watch-tower high up on the oaks, screamed aloud when they saw their master, gave themselves to the air, and with slow waft crossed the emerald lawn—a vision of white and azure and gold—and alighted at his feet. So Bowen smiled again.

In London Mr. Elton had a great library of books of all kinds, being a voracious reader. If he was kept indoors for a day he would read the whole day. He greatly enjoyed the Chancery junior who went to the seaside for a month and took with him "a" novel. His taste for Balzac he got probably from Vice-Chancellor Wickens. Stendhal was his own specialty. The books in that library were not chosen for reading only, for there were many which would satisfy Mr. Quaritch's pronouncement that you should buy a book not for its inside, but for its outside; and of these bound books many were tiny books which made what was called Mrs. Elton's library, including a series of Grolier bindings of which he was proud. He had a drawing-room specially built for his lustrous Persian pottery.

Vice-Chancellor Wickens, of whom he often talked, must have been a delightful person, although he was a scholar of Balliol in his youth. He was rejected for a fellowship when Jowett, still an undergraduate, was elected. Wickens was apparently always indolent. When he was the junior to the Treasury on the Chancery side, he had an enormous business, and of course the succession to a judgeship. Apparently at this crucial time the future Lord Davey, sitting at the table, would be slaving at the drafts, while Wickens lay on his stomach before the fire and read novels of every kind in various languages. He tore through them, being anxious, as he said, to get to the "charging" part. In old Equity bills the pleader having put down anything that occurred to him as relevant, at the end, as it were, pulled himself together and *charged* that this, that and the other was true, and also led to the relief which he claimed. Vice-Chancellor Wickens early made his

reputation as a wit. The Archbishop of Canterbury, dining at a great party, when the ladies had gone, started conversation by the apparently safe statement that he had never read a book from which he had not derived some profit. "Did your Grace ever try the second volume of Vesey and Beames," said young Wickens from the far-away lower end of the table. It should be explained to laymen that Lord Eldon, who was Lord Chancellor for some twenty years, killed Vesey senior early in his career, kept Vesey junior going for an intolerable time, and finally compelled him to bring in Beames, on the chance that he might outlast the "old sea serpent." The second volume of Vesey and Beames does not contain the first sprightly runnings of Lord Eldon's intellect. It adumbrates his output in extreme old age.

In London I seldom dined at Elton's house, being busy with his work, but he would talk to me of his guests. One of these was Frank Buckland, the great naturalist. "He took my wife in," said Elton on the next day, "and during dinner she thought that she saw a snake's head at his wrist. She mentioned her fancy to Buckland. 'Oh! that will be little Julia; I think I have a larger one somewhere about me.' My wife spent the rest of the evening on the top of a chest of drawers, screaming."

Elton had a short experience of Parliament, where he sat as member for his own division. Nothing could happen to him as it happened to other people, and on the night when he took his seat four Bills came forward dealing each with a subject on which he had special knowledge, and on which the House was glad and anxious to hear him. He was received with general acceptance, and people began to talk about him in

From Sir Frank Lockwood who
considered the old man one of
the best heads he ever drew.

Resolution.

20.1.97.



A LOCKWOOD DRAWING

political circles. But he could not slave in that galley, and did not sit in any second Parliament.

This was a man so various that he seemed not one but an epitome of several ; and for such a man, at the present day, there seems to be little chance of material success in the world. In England a lawyer must stick to his law, and Elton could not have been made a Chancery judge. In Chancery, if a man will devote his nights and days to equity and to no other pursuit, he will learn a noble system of jurisprudence and may in the end go far. Elton might have said that he would also find in the end that he had lived wisely but not too well.

From Whitestaunton I got to know Clevedon Court, the seat of the head of the house. Sir Edmund Elton, whom I first knew before he succeeded to the title, had devoted his spare time to the making of "Clevedon" pottery. This pottery he had discovered, and with one assistant made it himself. His character may be best portrayed in a single anecdote. He had the misfortune to get across the rector of the parish, and in the end one or two libel actions against him came to trial in London before Mr. Justice Hawkins. When Elton came to give evidence he troubled his own leader, Mr. Lawson Walton, Q.C., by the fullness of his replies. Sir Frank Lockwood cross-examined him, and all fears were at an end. He answered quietly and shortly, with an apparent desire to agree with the cross-examiner if he could. Sir Frank Lockwood was too great an advocate to prolong this scene unduly, but he stuck to his work and at last said impatiently, "One would think you and the plaintiff were friends. Would you speak to him now?" Mr. Elton paused and then said, "I bear him no ill-

will. He is a dear, good fellow. But of course I cannot have the same friendly feelings towards him as I have, for instance, towards you." This singular answer from a defendant in a libel action, who had been cross-examined for an hour, produced great laughter in Court, and completely puzzled Mr. Justice Hawkins. Lockwood explained: "My Lord, when I was at Cambridge I had the pleasure of Mr. Elton's acquaintance. We were at the same college." It was gallantly done, for the simple gentleman from the West country had taken the jury by storm.

One night at Clevedon Court, Sir Arthur Elton, the then tenant for life, was reminiscent. He was the friend of Tennyson and Thackeray and Brookfield, who had married his sister. He had privately printed a collection of sketches made by Thackeray at Clevedon Court, the serious butler in a mitre and canonicals and so forth; all very characteristic and easy. Of Brookfield Sir Arthur had stories to tell, two of which may perhaps be repeated. Brookfield, as a young curate at St. James's, Piccadilly, was much in request at dinner parties on account of his astounding gifts of mimicry. There was then in London a great lady upon whom a glass or two of wine had too much effect. Brookfield was persuaded one evening to enact a little scene between this peeress and himself, in which the lady began by being haughty and the curate by being shy. As the dialogue proceeded, the lady got more talkative, more confidential, even more affectionate, as she became less coherent, while the curate sank deeper and deeper into embarrassment, until the noble duke from the other end of the table brought down the curtain with "James, take her Grace away." It would seem that Mr. Brookfield had been "given away" in this matter, and that it

had done him no good in high ecclesiastical circles. He never was more than an inspector of schools.

Sir Arthur's other story was of the table at which we sat. Tennyson being there, Sir Arthur had got Brookfield to meet him and also the Reverend Julian Young, the son of the actor and a great *raconteur*. During the two or three days that Young was there he told his stories well and fully, and Brookfield, "the melancholy Jacques" of Tennyson's sonnet, said little. On their first evening after his departure, Sir Arthur broke an oppressive silence by saying something of Young's high spirits and fullness of speech. "Yes," said Brookfield, looking up at Tennyson, "the babbling Y."¹ The spell was broken, and Tennyson talked for the rest of the night.

Any one who wants a few pages of full enjoyment should read the account of Mr. Brookfield in his son's "Random Reminiscences." There is to be found the fellow curate of Mr. Brookfield's, who had a diamond ring which he wore once a month on communion Sundays. As they knelt on such a Sunday before the service the curate kept glancing at his ring, and getting up, began "If we say we have no ring, we deceive ourselves," and so proceeded.

¹ "There twice a day the Severn fills,
The salt sea water passes by
And hushes all the babbling Wye
And makes a silence in the hills."

CHAPTER VIII

LORD MOULTON

IN the early 'eighties, when people were beginning to talk about Moulton, his chambers were on the first floor in King's Bench Walk, looking out to the gardens. His own room was very elaborately decorated in a bizarre French style, and contained some valuable furniture, with ordinary chairs and desks for about half a dozen pupils. Over the mantelpiece hung a curious object, which the great Balzac was said to have owned and loved. This object came from China. On a background of a faint decadent green were displayed in metals or precious woods or stones or marbles all the requisites for opium smoking, and the pipe had a bowl of rose-coloured marble from which came an opaque white smoke in mother of pearl. Under this strange ægis, with the assistance of his six pupils, Moulton carried on a rapidly growing and very variegated practice, which included hardly any patent work. There is, in busy chambers, a great deal of paper work in which the master may often be much assisted. Moulton could not be assisted in this way. He could not work on other people's drafts. However, I once produced a document which Moulton did not change. This was a case for the Privy Council. I told him that the great Lord Davey said that these cases should be drawn in such a form that old gentlemen could read them in their libraries after dinner without referring to anything else. Moulton liked the idea of, say,

the illustrious Lord Blackburn in slippers" and with pipe, luxuriously turning over the pages of cases which he would deal with on the following day. So he passed my draft.

At that time there was a great deal of the common law of which he seemed to know little. On one occasion he appeared in one of the bill of sale cases which at that time were common. About bills of sale Moulton knew little and cared nothing. At the trial his leader was present until nearly the end, when he left Moulton to make the final speech. Its inadequacy was indescribable. On another occasion a client from Somerset sent him a brief in a case about copyholds. Having read with Charles Elton, I endeavoured to explain the case to Moulton. Moulton's idea was that copyholds had something to do with commons. When he was told that copyhold is an estate in land in a manor, differing only in some respects from freehold, he was very interested and forgot all about it. He opened the case in Court by saying, "This, my Lord, is an interesting case about commons." This was incorrect; the case was not interesting, and had nothing to do with commons.

Moulton's methods in Court were very much his own. In one case he was opposed to another junior who afterwards attained high distinction. While this junior was opening the case, Moulton, who was always for saving time, got up and made an admission. On this admission his opponent proceeded to work, and after a few sentences stated what he thought the admission was. "Oh! but I never said that," said Moulton. "You did," said the other, "only five minutes ago." "Oh, no; what I said was," so and so. The distinction was very fine but perfectly just, but the other man got annoyed, and said there was no

difference, and finally complained of being misled. To this Moulton made no reply. This was very characteristic ; he often took no notice where other people might have taken a good deal. This was sometimes commented on, and sometimes led to misunderstandings.

In another case he was led by Sir Frank Lockwood for the defendant, in a case which was tried in the Mayor's Court before Sir Thomas Chambers, the then Recorder, and a jury. Moulton, in a few sentences, argued that although the contract had been broken, the damages could only be nominal. To Sir Thomas Chambers all damages stood very much on the same level, and the verdict was for about £2,500. The case went to the old Divisional Court, where Mr. Cohen, under the then practice, had to show cause against the defendant's application for judgment or a new trial. This he did to the satisfaction of the Court in a very few minutes. Sir Frank Lockwood, who never claimed to be a profound lawyer, was unable to reproduce Moulton's argument, and the appeal seemed lost. However, Moulton got there in time, and after a very few minutes the appeal was allowed. Mr. Arthur Cohen took the case to the Court of Appeal, and there, again, in a short time satisfied the Lord Justices that he must be right. Just before he sat down Sir Frank Lockwood turned round to me, the deputy of the absent Moulton, and asked anxiously what this point was of Moulton's. He may have been imperfectly informed, but he again failed to convey it to the Court, and was merely playing for time when Moulton tore in. " We are all against you, Mr. Moulton," said Lord Esher grimly. " Oh, but your Lordships must not go wrong," was the unusual reply, in a tone of genuine anxiety, from the junior, then of ten years' standing. And then

in tones of suppressed intensity—as it were, at an icy white heat—he stated his contention in a few unembellished sentences, each of which took him a step further. A case in one of the lower Courts was dead in point and against him. Lord Esher asked him what he made of this case. “Oh! but your Lordships must overrule it,” and in a sort of confidential undertone, “It is all wrong.” “Can you not distinguish it,” said Lord Esher, who was not too fond of overruling cases. “No,” said Moulton. “If you can’t, I can’t,” said Lord Esher. “No, my Lord, no, but as I was saying——” “I meant to pay you a compliment, Mr. Moulton,” said Lord Esher, a little piqued. “Yes, my Lord, yes, but as I was saying——.” Being thus unable to make contact, Lord Esher turned on his elbow and said, “I think we must hear you again, Mr. Cohen.” Out flew Moulton, upsetting any books or papers that came in his way, the wings of his gown streaming behind him. This was his constant and disconcerting practice. That evening he was congratulated in chambers. “Oh! but it’s so *simple*,” said he, almost sharply.

In those times there was some money to be made in bankruptcy, and two quiet Queen’s Counsel specialised in the subject and earned a comfortable living before old Vice-Chancellor Bacon. At one time Moulton did a good deal of this work and, oddly enough, liked it very much. He may have been attracted by the figures, which to him were always child’s play. His incursions into that dreary Court fluttered the dove-cotes and delighted the old Vice-Chancellor; but Moulton was meant for other things than fraudulent preferences and mutual dealings.

It may well be supposed that a junior such as has

been described would soon be driven into silk. What ultimately took Moulton there was the Electric Lighting Act, 1883. In his last year as a junior he drafted for some client a form of provisional order under that Act, and in a few days the whole aspect of his chambers was changed. The form was printed with blanks and the chambers became an office, if not a shop. The six pupils and three clerks were all hard at work with scissors and paste, and in a few weeks hundreds of these provisional orders were disposed of at ten guineas apiece. And then the spate was gone, and the flow of ordinary work returned. But Moulton had applied for silk.

As a King's Counsel, Moulton rapidly became a specialist in patent and trade-mark cases. The leader who then occupied that field had a bowing acquaintance with science and a full fund of fluent language. On one occasion he was explaining to the Court of Appeal a trade-mark for cotton goods. At last Lord Justice Bowen, in his sweet acid way, said : " It does not seem very difficult, Mr. Z. ; two gold elephants on a green ground." " Precisely, my Lord," cried the counsel, " a duplicity of elephants." Being pitted against this gentleman, Moulton elbowed him out, without any ceremony and perhaps with too little consideration, with the result that sometimes awkward scenes arose. Moulton seemed unable to appreciate that it could not be pleasant to be pulverised. It was a process to which no one had ever subjected him.

When he got into his full stride in scientific work, Moulton's performance was as strange as it was powerful. Two scenes, one in Court and one in his own chambers, may illustrate this. In the first case, Moulton had with him another King's Counsel and myself

appearing for the plaintiff. The case was tried by Mr. Justice Wright, and seemed good for three days. Moulton, as his method sometimes was, opened the case very shortly and vanished. After trying the case for two and a half hours—which was a long time for that learned judge—Mr. Justice Wright had satisfied himself that there was nothing in the patent and demanded to know where Mr. Moulton was. This was what no one could tell him, but in a few moments he streamed in. “Your Lordship was asking for me. Can I be of any assistance? What is the difficulty?” “Merely that you have no patent,” said Mr. Justice Wright in tart and sardonic tones. Now at consultation it had been pointed out to Moulton that the claims at the end of the patent were very vague and uninforming, and might conceivably be held to be an attempt to cover several different possibilities, and Moulton had said that perhaps that might be so, but had not discussed the matter. On hearing Mr. Justice Wright’s pronouncement, “Oh, but that is very simple,” cooed Moulton; “give me the patent,” turning to me. He found the claims, and then, as I have always believed *extempore*, said: “This is a claim for,” and then stated the claim in language which ran the gauntlet of three severe struggles in the Court of Appeal, the House of Lords, and the Privy Council, where the patent was extended for five years. In the Privy Council, Moulton’s encounter was with the great Lord Watson, who was not less great on patent than on other subjects. At this period Lord Watson thought aloud, and the quickness with which the argument was conducted in dialogue might have made an ordinary man gasp. The patent had to do with the use of high-pressure steam in a steam-jacketed vessel for the disinfection of clothes,

and the plaintiff's advisers knew that they had won when Lord Watson smiled at Moulton, and said : " High pressure steam may be a very good deterrrrrgent, but that is no reason why I should wash my hands in it." Moulton smiled his half-smile of acquiescence ; and indeed the proposition seems a sound one. Many years afterwards (when it did not matter) Moulton said to me, " The patentee never had the slightest idea what he had invented, and I myself have never understood why that steam behaved as it did."

The second case of instant interpretation of a patent took place in Moulton's own chambers. The case concerned one of the great patents of the world, and the consultation was attended by all the authorities on patent law, whether counsel or expert witnesses, and by some of the directors of the company who were the owners of the patent. While waiting for Moulton, then at the height of his unpunctuality, the solicitor broached the question of the validity of this master-patent in which the claims appeared to be obscure and contradictory. Sir Frederick Bramwell was not hopeful, Doctor Hopkinson was frankly hopeless, and no one could say much in the way of encouragement. Into this atmosphere Moulton flew, alighted at the *Louis Quatorze* table, on which there were never any papers, and began by asking on what point the consultation was being held. To ask this question was his regular practice ; he would never advise in patent cases outside the question he was asked. The solicitor, who was a rough creature, stated that they desired to know whether the patent was a good patent, and if so, for what. " Oh, yes," said Moulton, in his soft voice, " let me see the patent."

Now about these papers Moulton had been very

troublesome ; for some unknown reason, or more probably for none, he had always put them aside when I produced them. Taking up the specification, and turning to the claims, he slowly said, in uncorrected sentences : " In my opinion this is a patent for," and then stated one or two separate claims. There was a distinct pause—if he was right, it meant a million of money to some people there present—and the pause was followed by a burst of almost nervous laughter. Moulton looked up. " Oh, I am very sorry. What is it ? I did not intend to cause laughter. I don't understand." Sir Frederick Bramwell, still laughing, said : " Well, before you came in we had all agreed that this patent was bad." " Oh, but it is good, really," said Moulton earnestly. " Is there anything further to discuss ? " " No." " Then I am afraid I must go." Then he vanished in his mysterious way. These two accounts of events which really happened may to the layman appear not very astounding. But, to the lawyer, to be present when such things were done was to marvel.

Moulton was in Parliament when Sir Henry Campbell Bannerman formed his Government, but the same superb *flair* which gave that statesman so wonderful a Cabinet excluded Moulton from political office and made him a Lord Justice.

He had for several years done little or no work that was not concerned with patents or trade-marks, and his friends looked with curiosity, and possibly apprehension, to his future in a new sphere. It has often been asked whether Lord Moulton was a great lawyer, and it has been mysteriously said that he was unsound, which, at any rate among Chancery lawyers, is a grave accusation. He was not a great lawyer in the sense in which Baron Parke, Mr. Justice Blackburn and later

Lord Justice Vaughan-Williams were great lawyers. He was not a dunce of learning. It is stated of Baron Parke, that, speaking about 1855, he said that he thought a considered judgment of the Court of Exchequer Chamber should refer to all the reported authorities on the question in debate, and when it was pointed out that a time might come when this would be impossible, insisted that as long as it was possible it ought to be done. This to Moulton would have been impossible. He would look at authorities if requested, but at all times was searching for something in the nature of general principle. To distinguish, to decline to say how far a case went, to decline to extend it further, was to him at heart cutting chaff. But he soon made good in the Court of Appeal. He had at all times the strongest sense that a workman should give good workmanship, and he bent himself to his duties in a most difficult Court with resolution and success. His written judgments were generally long ; this may have been because they were probably dictated, but at no time in his life did he attempt to be succinct or epigrammatic. The complaint that he frequently differed from his colleagues is much exaggerated. But, although he could when he liked have great influence upon other people, his own views were seldom modified by their arguments. He could hardly be said to differ, he did not agree. To point out defects or mistakes in other judgments was not in his way. He never had the vanity of desiring to show that he was cleverer than those around him. Indeed, some who knew him well might be inclined to say that his career in the law was a prolonged *tour de force*, and that he would have been perfectly happy if he had never had anything to do with it.

After the age of seventy Lord Moulton became the head of the Explosives Department, and the account of his doings during the succeeding four years is the subject of a fascinating chapter in his biography. The achievement may be stated in a sentence. In the year 1914 the total delivery of explosives was 5,732 tons, in the year 1917 it was 464,475 tons. The Lord Chancellor, upon Moulton's death, stated in the House of Lords that he greatly doubted whether it would have been possible for the war to be brought to a successful conclusion when it was but for Lord Moulton's part in it. If this eulogy could have been uttered during Moulton's life, he would probably have said "Yes, very nice of him, very kind I am sure, but—as I was saying," and so would have passed on. That was his way. In truth, Moulton first fully found himself when he undertook this post. He got the opportunity to exercise his genius (1) untrammelled, (2) upon practical and crucial work, (3) for the protection of civilised humanity. This to him was to satisfy the three strongest instincts in his life. Whether he was organising his immense plants—"like the Theban eagle, soaring in supreme dominion"—over Storey's Gate, or scouring the country in perpetual inspection of the countless factories which he had brought into being, he must, amidst all his anxiety, have enjoyed a deep and continuous happiness. Nothing but a perfect confidence in his own ability to achieve his task could have carried a man of his age through those four years without any breakdown. "He fought a good fight."

Lord Moulton had a very sweet temper, and was so tolerant of other people's views and opinions as to appear almost too easy-going. He would have subscribed to the saying of Thomas à Kempis—whom he

is not likely to have read—"Why be angry that you cannot make others what you wish, when you cannot make yourself what you wish to be." His sense of humour was not strong or original. When very tired with his work, he would break off, and with his half-smile say, "Tell me some stories." It never mattered what the stories were, if there were any incident at all. But anything that turned on brilliancy of language or quaintness of expression left him comparatively cold. He had china and pictures and books, and loved music and the other arts. But in these matters he was not unlike other people; there was nothing special in his appreciation of these things. He was very rapid in all his movements and quick in all his actions. He might have said, with John Wesley, "I am always in haste, but never in a hurry." Finally, it could not be said that he was very popular at the Bar. He seemed reserved and aloof, and rather inclined to be immortal. The legal profession should be proud that among its numbers it has included a man who, having for many years been no mean citizen of no mean city, turned in his old age at the call of duty to a sphere of action so far removed from the law, and there found the true outlet for the strong and beneficent workings of scientific genius. This has never happened before, and will probably never happen again. That curious and complex intellect was unique.

CHAPTER IX

THE OLD LAW COURTS AND THEIR OCCUPANTS

I WAS called to the Bar on a cold winter's evening. The practice at the Inner Temple is that the new barristers, in dress clothes, wig and gown, go into the Parliament Chamber after dinner to find at dessert the Benchers who have just elected them. The novices receive each a glass of wine and hold it while the Treasurer proposes their health. The senior of the batch makes a reply and proposes the health of the Benchers, which his companions drink before withdrawing. On my call-night we went from a cold hall into a beautifully warmed room. The Treasurer for that year was a Queen's Counsel and a Member of Parliament, with a considerable middle-class practice and much fluency of speech. In a long and amorphous discourse he told us in rich tones of the possible prizes, and declared with emphasis and reiteration that for most of us the path to success would be long, but that delay must never lead us to deviate from the high standard of honour which the Inn had always upheld. There were no signs of preparation about this glib and unctuous address, and its careless commonplaces were unworthy of the occasion. The senior of the new batch was a man of perhaps thirty years of age, a writer of newspaper articles, who was being called behind his time. He was a tall, noticeable man, and spoke with ease and coolness. He said he noticed that the Treasurer was anxious that they should behave as

gentlemen, "which"—with a sort of easy contempt—"I personally propose to do." He was certain that the Treasurer was right in saying that most of us would have to wait for success, adding, "So far as I am concerned, I think it probable that before I obtain a practice most of those I see before me will be mouldering in a cold grave." It appeared that he resented the Treasurer's idle condescension, and the other Benchers did not seem to mind what was really unjustifiable. However, the bomb was thrown, and we were glad to troop out after our George Warrington.

Westminster Hall, the Guildhall, and Lincoln's Inn were at this time the three homes of justice which the neophyte frequented, and as to each of these a few words may perhaps be permitted.

And first as to Westminster Hall. I just managed to speak there as a barrister. Shortly before four o'clock on a Friday afternoon a solicitor's clerk came in a hansom to take Moulton to Westminster to ask for the postponement of a case. Moulton being absent, his clerk sent me in my new wig and gown. We got into the Queen's Bench to find Lord Chief Justice Cockburn on the Bench, which was a real bench, a wide comfortable seat which went across the end of the Court on a raised dais. The background was of dark oak, and there were silk cushions strewn on the seat. When only one judge was sitting only one desk was there. Sir Alexander Cockburn, a short, slight man, with fine thin features and graceful movements, would sometimes collect the cushions and lean on his elbow with his right hand to his face; this against the oak background was picturesque enough, especially if he happened to be wearing ermine and his collar of gold. He was preparing to rise for the day, but saw me at once

in the fifth or sixth row. "Yes," he said, "what is the name of the case?" I told him. "How far is it off?" Through my voice the solicitor's clerk told him. "Have you the consent of the other side?" "Yes," said the echo. "Is it a case of any urgency?" "No," said the echo. "What is it about?" I did not know. At this moment the Master, sitting below him, got up and gave him a piece of paper. He glanced at it and said, "Well, Mr. Ashton, I think you have said enough. The case will be postponed." He died a fortnight later. The true inwardness of this was that he always insisted on addressing young counsel by their names, and until he knew my name would not grant what I wanted. Here was an old man a fortnight from death, at the end of a week, on Friday afternoon, granting a formal application, but refusing to do it till he could address the applicant by his name. We occasionally hear of "old-fashioned courtesy"; it was through such courtesy that the man who had made the Don Pacifico speech addressed by name a junior of no standing. On Friday, motion day, this Lord Chief Justice, in his beautiful voice, would "call the roll" of the Bar of England, beginning with "Mr. Attorney, do you move?"; "Mr. Solicitor, do you move?"; and so on through the silks and four or five rows of juniors, all of whom he knew by name.

The Queen's Bench was the first Court on the right hand on entering Westminster Hall. It was not very large, but beautifully shaped and with an air of dignity about it. The robing room on an upper story had a window into this Court from which barristers could see how the cases were going on. Close by was the Bail Court, a little Court in which "Common Juries" were tried and all sorts of odd business was done. The

Exchequer was the second entrance in Westminster Hall. This was a fine Court, large and full of light ; behind it was the Exchequer Chamber, in which appeals were heard and cases sometimes tried. The third entrance led to the Common Pleas, a shabby sort of place, beyond which was the Probate and Divorce Court. In the corner, at the end, litigants got up a wretched staircase to Vice-Chancellor's Court I., and by a further staircase to Vice-Chancellor's Court II. These courts were almost incredibly sordid. " If you think," said Mr. Baron Martin to counsel in V.-C. Court II., " that my brother Bramwell and I, sitting in this cock-loft, are going to overrule the House of Lords, you never were more mistaken in your life."

Two of my friends called on a third to see his newly acquired chambers. They found a small boy in possession. " Where is Mr. B ? " " Please, sir, he told me to say when he wasn't here that he was down at Westminster, and who shall I say called ? " " Mr. Meeson and Mr. Welsby." Those names the boy had seen on reports which he dusted, but to see both the illustrious reporters at the same time in the flesh was indeed seeing life.

I saw the judges of England leaving Westminster Hall. Lord Selborne, the Chancellor, came first, then Lord Coleridge, the Chief Justice, and then Sir George Jessel, the Master of the Rolls. The judges walked two and two in their full scarlet and ermine. The spectators were on each side of the Hall, but a wide path was kept for the procession. From time to time the procession halted, and on one such occasion what should one of the judges do but leave his place and go to some friends and talk to them.

The second place of resort for Common Law barristers at that time was the Guildhall. Here each

sitting one or two judges attended. The judges continued to go to the Guildhall long after they had left Westminster, to do the sort of work now done in the Commercial Court. The Court in the Guildhall is a fine Court, and looked well when full. A second judge would sit in the Mayor's Court. The future Sir Charles Butt was then very great at the Guildhall. He had practised in the Consular Courts at Constantinople and knew the business side of commercial law. But he was also a persuasive and insidious advocate. On one occasion he was opposed to a learned but innocent Q.C., and A. L. Smith, then junior to the Treasury, strong and burly and exceedingly wide-awake. During the morning Smith had been engaged elsewhere, and at two o'clock came in to find how they were getting on. "Oh," said Butt, with his exasperating drawl, "our dear friend has admitted your client out of Court." "Have you?" said Smith, turning to his leader, who could not deny that "to save time," he had agreed to various propositions put forward by Butt. On this, Smith bundled him out of Court, and when the judge, Lord Coleridge, returned, started on the lines that no admissions had been made. "Very interesting, I am sure," simpered Butt, "but your leader has admitted the converse." "I never admitted it," said Smith hardily; and greatly to Butt's disgust, Lord Coleridge let him pursue his course and ultimately win for the right side.

Butt for advocacy, but for everything else Benjamin, was the verdict of the City. This former Attorney-General of the Confederate States was a short tubby man, with nothing about his face or demeanour to attract special attention. Admittedly he argued better than any of his contemporaries. He hated cross-

examination, and at the end of his time refused to do it. I remember a great City firm taking him to the Guildhall for a special jury case. Mr. Arthur Cohen, Q.C., was the second silk, and Benjamin tried hard to escape from the brief. But they begged him to at least open the case, and this he reluctantly did with his own supreme lucidity. Having finished the opening, he picked up his papers and tying them up as he spoke with the red tape, said, "Those, gentlemen of the jury, are the facts of this case as we understand them; and with the assistance of my friend Mr. Cohen, who will examine all the plaintiff's witnesses—with our junior's help—and will also cross-examine all the defendant's witnesses and make the speech in reply—you will no doubt be enabled to give us a verdict." These or such-like words were the last he ever addressed to a British jury, and having tied the knot in his tape to his satisfaction, he walked out of Court.

The last speech Benjamin ever made as an advocate was made in an arbitration, as it happened before Mr. Arthur Cohen, on a Saturday afternoon. I attended to take a note for Moulton. Mr. Benjamin told Mr. Cohen in one sentence that he was glad his last speech was made before him (referring, I think, to their being both of the same race), and then stated the facts in his terse and unadorned way, missing nothing and repeating nothing. The case concerned some works at St. Helens, where the furnaces had got out of order. He said the workmen had been "fettling" these furnaces, "and" in his strong Yankee accent, "I dawn't 'xactly knaw what that means." Saying I came from Lancashire, I gave him the meaning of that characteristic Lancashire word. "Naw daht that will be saw," he said and passed on. So I suppose I am the last man who at the

Bar taught Benjamin something he did not know. Often have I seen him, especially in the Court of Appeal in Lincoln's Inn, before, say, Jessel James and Bramwell, sorting out the various propositions which might help him in a desperate case, suggesting distinctions and questioning *obiter dicta*, and all with an air of detachment and indifference which doubled the effect of his plain sentences. At the end of his time he was often brought into the Court of Appeal in cases he had not been in before, on the view that if anything could be done, he was the man to do it, and this not merely in commercial cases which were his stronghold. It is sometimes said that some of Sir Samuel Romilly's replies are as valuable as Lord Eldon's judgments in the same case ; and so one can learn as much from some of Benjamin's later arguments as from any judgments on the subject he is treating. When arguing he stood easily, spoke with extreme directness, listened carefully and pleasantly, and played no tricks. He was very independent, and treated the judges as being men like himself, engaged in a discussion. His voice was quite agreeable, notwithstanding his accent, and his gestures very slight, sometimes a wave of the hand. His opinions must have been of great value. On one occasion the Bank of England, I think, consulted him, with Sir Hardinge Giffard and Bowen. The case was of immense importance. The counsel met several times, and in the end gave this opinion : " In this case Sir Hardinge Giffard and Mr. Bowen are of opinion that the Bank are right. Mr. Benjamin is of opinion that they are wrong." On this opinion the Bank settled.

The third place at which lawyers congregated in those days was Lincoln's Inn. One division of the

Court of Appeal sat in a committee room in the Houses of Parliament, the other in the old hall in Old Square. Around this were grouped three sheds in which the Vice-Chancellors sat, Vice-Chancellor Hall and Vice-Chancellor Bacon on the east side, Vice-Chancellor Malins at the south-west corner. When Mr. Justice Fry was first appointed he sat in a room under the present library of Lincoln's Inn. Such was the higgler-miggler state of things before the Law Courts were completed.

The old hall in Lincoln's Inn had been long used by the Lord Chancellors when hearing appeals. It was there that Eldon heard Romilly. It was there that in the wonderful opening chapter of "Bleak House" the Lord Chancellor's wards waited for him in his room, and his carriage and carriage horses waited for him in the fog outside. That Lord Chancellor was apparently Lyndhurst, for we are told that he was handsome. But the hall had not always been a Court of Justice, for Sir George Jessel used to say it was the only Court where you could hear perfectly, "presumably because it was built for a library, in which silence was to be observed." The little door is still there which led to the Lord Chancellor's private rooms. It was there that Sir Thomas Plumer, M.R. was sitting "for the Lord Chancellor, red and hircose as usual," when the poet Shelley wandered in. "One of the dullest of his dull Bar" was pointing out that if the Master of the Rolls did something he would open a door. "But I will not open a door," said Sir Thomas. "True, your Honour, but your Honour will observe that the door being opened——" "But I will not open a door," said his Honour severely. At this point Shelley burst from the Court in hysterical laughter. Sir Thomas looked

after him in surprise, "thinking, no doubt, Poor young man, perhaps he is taken ill, or he may have some other appointment. But I will not open a door for all that." Thus the inimitable Hogg in the incomparable biography.

I remember a very different person coming out of that Court when first I attended it with my Chancery Master. The judges present were James, Bramwell and Brett. The case was concerned with the infringement of some chemical patents for dyes. The nomenclature of these dyes and the symbols for expressing their component parts are such that all arguments become unintelligible to the bystander. A Queen's Counsel was stumbling through a specification without any grace of speech that could afford relief. This man seemed some unfortunate Chancery junior, who had taken silk by mistake, and was struggling with a rare brief to which he could not do justice. After a time, Lord Justice Brett (who thought aloud much more than the others) "gave tongue"—as A. L. Smith used to say of the judges before he joined them. "But suppose I say—so and so—and then say that—so and so—follows from that, what would you say, Mr. Attorney." And this was Holker, the greatest verdict-getter in England. He replied with hesitation, "If your Lordship asks me—whether I agree—with that expression of opinion, then"—here he slowly moistened his lips—"I say no." Bramwell laughed outright and James smiled gravely, nor did Brett resent it, having no false vanity. Not very long afterwards he said, "That, my Lords, is all I have to say," and came out. I looked at the idol of my future circuit and saw a big heavy man, with great shoulders and a deep stoop, his face grey, the white of his eyes yellow, his mouth large

and loose and a look which spoke of two things only, an immeasurable weariness and a fixed determination to persevere. So he went on his way slowly.

The Master of the Rolls had his own Court in the Rolls House, down Chancery Lane. The Rolls Chapel is, of course, now part of the Record Office. The house itself in which the Masters formerly lived was very handsome, and the Court had been the Master's library. It was this house in which Sir William Grant showed his friend the library, the dining-room, the morning-room, and his bedroom, all on the ground floor, and pointing up the wide staircase, said, "And I believe there are good rooms upstairs, but I have never been there." In this library he heard the great case of "Eton College against King's College, Cambridge," sitting in the morning and after dinner, as the custom then was. The case lasted nearly three days, during which the Master opened his mouth twice, on each occasion to say "lights," as the summer sunshine faded. When the arguments had finished he at once delivered the celebrated judgment.

The Vice-Chancellors' Courts in Lincoln's Inn were as shabby and mean as the Vice-Chancellors' Courts at Westminster. I think they were built of wood. The Vice-Chancellor had some red baize on his bench, and that was about all. Yet in these wretched sheds splendid incomes were made by the great Chancery leaders.

Lord Chancellor Cairns had read with Vice-Chancellor Malins, who took it rather amiss that his pupil never put him in the Court of Appeal. He was a stout, fresh-faced, pleasant-spoken man with a boundless fund of curiosity. One fine spring morning the future Mr. Justice Mathew, the busiest of the Common

Law juniors, seeking an hour's relaxation, came in and sat down in Malin's Court. "Mr. Mathew, are you engaged in any of these motions?" said Malins very soon. "No, my Lord, I thank you," with a deep bow. After a slight interval, "Have you any application to make, Mr. Mathew?" "No, my Lord," with another bow. Finally, "May I ask what *does* bring you here, Mr. Mathew?" "Merely a desire to see your Lordship administer justice," with an ingratiating smile. There was this much in it, that no one ever knew what Malins would administer as justice. He had invented a sort of "spirit of equity" which would lead judges not to be too hard upon people, and also to relieve people from being oppressed too severely by other people. This procedure, of course, led to his decisions being constantly reversed.

With Vice-Chancellor Hall things were very quiet. He was a great conveyancer and a fine real property lawyer, but his wine was of a very dry flavour. Mr. Graham Hastings, his chief leader forty years ago, died the other day at ninety years of age, a man of whom every one said one thing only: "Why was he never made a judge." He had the easiest manner of any leader I ever listened to. From his voice and demeanour a foreigner might have supposed that he was suggesting to the Vice-Chancellor that next Saturday might possibly be a good day for a country ramble; and yet all the time he was making headway, rounding off a corner or strolling round an obstacle, or putting a plank across his opponent's pathway. His main opponent was a man with a face and goatee beard like an Egyptian king, an imperfect sense of hearing, and an enormous voice. This gentleman, whom every one respected, had a very definite accent. During an argument of his,

the Vice-Chancellor spoke to him as he was looking down, and did not catch his attention. "The Court's addressing you," whispered the courteous Hastings. "'Ow does 'e put it," said the other in tones which Vice-Chancellor Bacon might almost have heard next door.

Sir James Bacon, the last of the Vice-Chancellors, was emphatically himself and no one else. He sketched beautifully in water-colours, was widely read, and as became one who had broken bread at "brunch" with Charles Lamb, had an exquisite sense of humour and fine command of phrase. He was about seventy when he was appointed, and over ninety when he died. His deafness seemed to vary with his inclination to listen. He was very unsparing in what he said. His leaders, who are all now dead, did not please him at all. "There is A. with his voice, and B. with his nose, and C. with his beard, and poor E. F"; so he characterised them at one time. A former leader, to relieve increasing deafness, had adopted a device upon his head which brought ear-pieces of metal close to his ears. An old acquaintance of mine, of nervous temperament, had a brief before Bacon with this leader. Bacon said something which the leader had not caught, and my friend felt that it would be unwise to interfere. The silence was broken by Bacon saying in a despairing tone, "Which of you am I to address? The one who is obviously deaf, or the one who is apparently dumb." The lady litigant, Mrs. Weldon, was driven frantic by him. He listened to her with an occasional bow or smile for a day and a half, and as soon as she had finished, dismissed her action with costs and without reasons. The handsome lady protested with anger, strained her fine voice in assurances that he had deceived her, threatened

to report him to the Lord Chancellor, and wound up, "I shall go to the Court of Appeal at once." "I hope, Madam, you do not think I have any objection to that," said the Vice-Chancellor gravely, his fine intellectual face perfectly unmoved, and his large eyes beaming upon her.

A faithful client told me of a case before him in which his leaders had excelled themselves. There were three parties and the case lasted beyond a week, during which he said nothing, wrote nothing, but sometimes apparently made a sketch in his note-book. Late on the seventh day the case concluded, and he at once began: "In this case the facts are not numerous, and are easy of ascertainment. The principles of law which apply to them are indisputable, and have long been well settled. But, thanks to the exertions of counsel, it has taken us longer to dispose of it than"—after an emphatic pause—"it took the Almighty to create the world."

Such were the surroundings in which barristers practised before the opening of the present Law Courts.

CHAPTER X

THE OLD MASTERS

“**T**HE Common Law Masters,” began a *Daily News* article forty or fifty years ago, “are good worthy men who resemble the Common Law Judges in many respects, particularly their names.” This pleasantry, attributed to Mr. Herbert Paul, would be unfair to the Common Law Masters of to-day, but in 1880 was not altogether undeserved.

Before the Judicature Acts, the two Chief Justices and the Chief Baron held the patronage in their respective courts. It is therefore not surprising that human nature sometimes had its way, and Masters made their appearance who even to charitable eyes were not obvious choices. Some of these Masters survived to my time—for in the Law Courts the favourites of the Gods do not die young—and some of their doings may interest juniors who enjoy a very different *régime*.

I never knew the dingy offices scattered in the Temple and Chancery Lane in which—as readers of Dickens remember—the interlocutory work of the Courts was done by Sniggle and Blink’s tenor clerk, Porkin and Snob’s bass and Stumpy and Deacon’s “outdoor.” The new Law Courts swept all the offices into one building, and made everybody respectable. At Westminster the chiefs had each a private room, but their four puisnes shared another ; at the new Law Courts every judge has a room of his own. On the first day when the courts were used, there was a great

assembly of juniors in their new waiting room. There were new chairs and new tables, and in the middle a table on which stood a new bell. No one knew what the bell was for ; but it occurred to one man that bells were meant to be rung, and he rang this bell. An attendant appeared in uniform—another novelty—who himself seemed new to his job. “ You can tell the judge we are quite ready now,” said the ringer pleasantly. The man hesitated, and then started off ; if he had not been stopped he might have carried the message to Mr. Justice Field, whose temper, like Mr. Justice Stareleigh’s, “ bordered on the irritable and brooked not contradiction,” and who also, if the attendant could have pointed out the offender, would have committed him instantly.

Into these new surroundings, empty, swept and garnished, stepped the old Masters, each having his own new private room ; but some were themselves past sweeping and garnishment.

The senior, Master A., had been once a good special pleader, and seemed to remember faintly the forms of the law. He appeared also to follow what was said, but was so exceedingly deaf that no one could say that this was not a mannerism. For he was also provokingly silent. On one occasion another barrister and I had an appointment before him at eleven o’clock. We found him sitting at a table which ran on castors. He was in the middle of the room, and on the other side of the table were two youths of the Jewish persuasion, prepared for the fray which had not yet begun. Seeing us, the Master said, “ I cannot take you till one o’clock ; I have to tax a bill of costs.” At one o’clock we found the Master in the farthest corner, hemmed in by his table and unable to retreat any further, a little frightened

but quite placid and bland, now allowing and now striking out items, in despite of oriental arms brandished in protest and oriental voices hysterical with indignation. The Master saw us, and silently waved us away. We left his room and settled a form of order for ourselves. I never saw him again.

Master G. was tall and, for a lawyer, quite good-looking. He had a pale long face and large black eyes, black hair and short whiskers. His mouth had an appearance of firmness. He dressed well in black or grey, and at first blush would impress a young junior a good deal. Before this Master I conducted my first summons in a difficult patent case in which Moulton was against Mr. Chadwyck Healey (as he then was). It was Moulton's summons, and as he did not arrive I had to take his place and begin the argument, to the audible disgust of the solicitor's clerk. I did my best for some twenty minutes, when I observed, in the midst of my anxiety, that the Master from time to time bowed silently to some observation of mine. Thereupon I stopped, and Mr. Chadwyck Healey began. He also occupied some considerable time until the Master began silently bowing to him, and he also discreetly stopped his argument. I was just going to begin an impassioned reply when the Master opened his mouth, saying, "What is your name? I have not had the pleasure of seeing you before." I told him it was my first summons. "Well," said he, "you seem a nice pleasant, affable young gentleman, and I hope you'll succeed. Now would you mind telling me what this case is about?" The scales fell from my eyes, and I explained to him in simple language that this was a patent action; and when he had got that into his head, told him what I wanted him to do.

“ Well,” said he, before I could state the other side’s contentions, “ that seems most reasonable, and I shall certainly do it.” And so he did forthwith, amidst the vain protests of my distinguished opponent. It is apparent that appeals from such a Master would be frequent, and that his day, if he ever had one, had long gone by. But if I were asked now for my favourite Master, I should say “ Master G.,” and if I were told a dog was a Gordon setter, I think I should love it.

Master W. was a very different man. He had been appointed young, and served a long time. All the juniors who appeared before him seemed to have an amused tolerance for him. He was short and stout, with a strange outline of body, a large whimsical face, rather bright small eyes and an odd expression, half defiant and half appealing, which seemed to say, “ I fancy I am rather a knowing bird. Don’t you agree ? ” His language was slangy, and his intelligence not above the ordinary. But this was where his innocent cunning came in. In the course of many years’ experience he had discovered endless ways of getting from counsel either compromise orders, or at any rate orders which would not look foolish on appeal. Any suggestion he picked up eagerly, or tentatively threw out a suggested order to see how it would be received. If one fly would not take, he was quick at trying another ; and so in the end, without exerting unduly a slovenly and sluggish mind, he would produce the right sort of thing in a sprawling unreadable script, and in lines which never ran straight. Again, if the result of the friendly discussion had been that the plaintiff should answer 1, 3, 5 and 7 of the defendant’s Interrogatories and should not answer 2, 4, 6 and 8, it might well be that the order directed the plaintiff to answer 1, 2, 4, and 7.

If this were pointed out to the Master he would say, "Oh! have I? Well, put it right yourselves." He had, at any rate, the merit of trusting counsel.

This course of procedure had its pitfalls and he sometimes stumbled. On one occasion the plaintiff was suing for fee-farm rents of trifling amounts which some public institution had omitted to pay. The defendants asked for further particulars of these fee-farm rents in order to trace them. A "fee-farm rent" is a quit-rent, first reserved when the freehold was originally farmed out, subject only to this rent. The word "farm" has nothing to do with agriculture, and these particular fee-farm rents were payable in respect of land in the City. The summons being before the Master and hastily glanced at, "Well, Mr. Bray," said he, "You might give them the names of the farms." He would not be in the least disturbed when the trifling error was explained. To a man like this solicitor's clerks were necessarily a great nuisance; for very often they could not or would not tell him what he should do. He would sometimes lock himself in for an hour before he would let in "the rabble." He never seemed to know any one. You might see him not infrequently drifting about the West End at any time between four o'clock and midnight, always alone, always untidy, and always peering about. He would look at you under his eyebrows and even (as it seemed) under his eyelids, but he never recognised any one. He was only getting through the evening. He shuffled off this mortal coil a good many years ago, but any one who knew him would still smile at the mention of his name. Incidentally he left a large fortune behind him.

A more genteel type of man was Master M., a

tall thin person, with grey hair and full bushy grey whiskers, a patchy complexion, a high querulous voice, and many grievances. He probably suffered from infirmities of health, but his constant complaints wasted a good deal of time. He had, moreover, no sense of humour. I never saw him smile but once ; this was when I applied to him to strike out a counterclaim by a defendant in person, who was on the verge of the lunacy into which he ultimately passed. This defendant, after stating a sane defence to my claim, launched into a counterclaim which was merely wild invective. It commenced, " The defendant claims a fair trial before God and man." The Master, on reading this, looked up at the poor defendant, and with a faint wintry flicker of amusement said, " We will endeavour to give you that." On the appeal we came before Baron Pollock—the kindest and best of men—who sent every one out of the room except the defendant and myself. The defendant was a gentleman, and had been at a public school. Baron Pollock completely persuaded him not to waste his money in litigation, but to go away and rest. So we adjourned the summons. Next morning Baron Pollock received at chambers some ten or twelve abusive postcards written and underlined in red and black ink indiscriminately, all in the defendant's neat, small hand. This must have been the end of things, for the action petered out.

This Master M., though too narrow and technical, was a man who had a firm sense of duty and some interests outside his work. He was a convinced churchman of strongly evangelical views, who attended Exeter Hall meetings, and I fancy he collected something, perhaps beetles, or perhaps butterflies ; I think it must have been butterflies. He always walked home by the

Embankment, holding his green umbrella horizontally by the middle, and was glad if any of us joined him. His chief trouble was a mysterious apprehension that Common Law might at any time be plunged into confusion. Before the Judicature Acts all the proceedings in an action were entered up, from writ to judgment, upon a piece of parchment, which at last went—at any rate in copy—to the successful party. It seemed from the Master's laments that this was no longer so, and that judgments and pleadings were now separate, and thus—here the Master would become querulous and confused—it might happen that you would not know what judgment had followed in any action. No one ever exactly grasped what the Master apprehended, but whatever it was, it has not yet happened.

Master E., in his later years, was suffering from overstrained nerves. During the morning sittings, beside the bottle of water and glass there stood his flask, and the last hour before lunch was punctuated by sips of whisky and water, which braced him to make his orders. As a rule he endeavoured to be hearty and even jovial, but one morning, on a special appointment, we found him moody, distracted, and highly nervous; he kept on gulping down more and stronger draughts, and his hands trembled. Suddenly we heard a distant booming in the passages. The Master sprang to his feet, screaming on an ascending note: "*They're coming! They're coming!! They're coming!!!*" then laughed hysterically while the door burst open, and a stream of perhaps seventy juniors and solicitors' clerks debouched into the room, descended upon the pallid Master, and swept us into the background. The butchers of the Beaconsfield Club, not having been paid for their meat, had sued the committee. The com-

mittee, being advised by Mr. Vaughan-Williams—afterwards Lord Justice—had served, say, 140 third-party notices on the most distinguished members of the club, calling upon them for indemnity from, or contributions towards, the cost of the meat. These noblemen and gentlemen—one of whom was the then Duke of Edinburgh—had no notion of paying for meat consumed in a club of which they were only ornamental members, and came by their counsel or solicitors' clerks to tell the Master what they thought. Hence our private pandemonium.

The Master being powerless, the gathering took the form of a public meeting. Mr. Vaughan-Williams suggested to the Master, in his curious sing-song way, that perhaps one counsel might be selected to speak for the whole body, and that perhaps Mr. Bray should be, if he might suggest it, "the protagonist." So Vaughan-Williams. Not so the common law clerks of the great metropolis. Mr. Bray was not acceptable—"too long," one clerk would say; "too technical, I fancy," another, "What do you think, Field Roscoe?"—for the higher common law clerks used to call one another by the names of the firms they served. And so while thirty or forty counsel were trying to get into line, sixty or seventy clerks in the background proposed one another as spokesmen, suggested that the litigants themselves should appear, or if they heard the name of any counsel mentioned at the front, immediately black-balled him. "Oh! no, can't have him, can we, Hollams?" The morning was cakes and ale to them.

There was a man at the Bar who was a Master for one day. He took the counsel summonses in the morning; in the afternoon the non-counsel sum-

monses came before him. When he had finished these he sent in his resignation. Being a good lawyer and a man of means, he turned to reporting, and for many years was very successful in reporting the Court of Appeal. He generally dined at his club in a far corner with a brother reporter. On sitting down, he at once began in his fine penetrating voice to put before his colleague any legal points which had occurred in his Court during the day. The colleague, an easy man, to whom dinner at that hour was more interesting than law, punctuated the narrative with civil assent. And so the great voice boomed on. I seem to hear it as I write.

There were two Masters who showed how the thing could be done, Master Kaye and Master Johnson; of whom, speaking in terms of the other old Masters, it may be said that Master Kaye was the John Bellini and Master Johnson the Peter Paul Rubens of the craft.

Master Kaye was a shortish man with a very pale face, large nose, blue eyes, grey hair with a ripple in it, and a large pair of eye-glasses. He wore a short black jacket—which was not then common—and shepherd's plaid trousers, was very cool and quiet, and absolutely independent. Before Kaye any new junior would beat Mr. Bray or Mr. Vaughan-Williams, or even the junior to the Treasury, Mr. A. L. Smith, if he had the right materials and could state them. But the Master was cautious and deliberate. Knowing his practice inside out, he was slow to extend his jurisdiction by interpretation, though he could be ingenious in getting advantages for a meritorious case. His personal hatred of dishonesty and guile was wonderful. He would look up, and his light blue eyes would flash when some suggestion was made that there was nothing so

very bad in some particular fraud. He made his orders with great care, and when he had finished a difficult one would hand the summons to the man entitled to the "carriage" of the order with a look partly of satisfaction and partly of self-assertion, as if to say, "There—that's my order. You can take it or leave it, as you think proper." I used to think a sign of his satisfaction was to be found in his initials—on a good day the lines of the great K were dashed across the summons. If ever a man did honest and valuable work in his vocation, it was Master Kaye.

The last of these Masters was a delightful personality. Imagine some pleasant day in the summer term and a spacious and airy room, cool and full of light. There may be seen behind the partition that divides the room a large presentable man with a great head and full healthy face, probably in an alpaca jacket and a grey linen waistcoat, seated at a wide desk with many sets of papers around him, a long quill pen in his hand. This is Master Johnson whom even the clerks spoke well of. Master Kaye worked among the papers, and did not often look up—but Master Johnson was always glancing his fine eyes about him and listening to everybody. He got his knowledge at first hand, so to speak, and got it very quickly. In Sir Richard Steele's phrase, it was for a young barrister a "liberal education" to go before Master Johnson. Firstly, there was never any difficulty about the facts of the case. He seemed, like Sir Henry Hawkins, to suck them in through the skin. In the next place, if there was any law involved he liked to have it stated at some length, and for so quick a man was a very patient hearer. He had remarkable powers of dispatch, and never seemed to be tired. He had also great facility in drafting docu-

ments ; in this respect none of his colleagues were in the same class with him. In those days interrogatories administered to the other side were a great abuse. One man used to be pointed out as having drawn a set of sixty-four, and eighteen or twenty were quite common. The great Baron Martin would say, "Take any six you like—six is enough," but a Master could hardly have done this. Master Johnson would take the proposed interrogatories, cut out two or three, run three others into one, substitute his own short question for a long one, and in remarkably little time produce the sort of thing that was wanted. In his general work he was most effective ; he had the great gift of looking ahead and anticipating possible difficulties—so that his orders would generally "work." In this he was the antithesis of the late Mr. Justice Wright—a most astute and painstaking judge—who, in his subtlety, would make such elaborate orders that they could not be worked out, and would direct things to be done which nobody had asked for or wanted. The Master was businesslike in what he directed. He might be trusted not to allow great expense, for instance, in the discovery of unnecessary documents. Moreover, he was bold. He did things which Master Kaye would have said could not be done, and no doubt Master Kaye might have been right. But on the other hand, people found what Master Johnson did was so helpful that it was generally accepted. With his great quill pen he wrote in a magnificent hand some few pregnant words, and these were usually sufficient. No one in the Law Courts wrote a better hand than Master Johnson except Mr. Justice Field ; but then any of the Roman Emperors, even Trajan himself, might have been content to write Field's hand.

I may perhaps add one or two recollections of other officials below the rank of judges.

Official Referees, of whom there are three, were first created about sixty years ago. None of the original Referees are still alive. These officials try cases which involve elaborate investigation of documents or long controversies about figures or a great amount of technical details, and which, therefore, it is said, would occupy more of the time of the High Court judges than one litigant is entitled to. Such is the theory which it is now too late to controvert. But two of the judges of late years never referred a case, Mr. Justice Day and Mr. Justice Bray. I have heard Mr. Justice Bray say that, with good-will and assistance of counsel, a judge ought to be able to try any case. However, no doubt, references to private arbitrators had become too frequent and too expensive, and the Official Referees were needed. But in their early days they were not an unmixed blessing. The cases referred to them, from their nature, might be expected to occupy some days, but that was no reason why they should occupy some weeks. A case in point was one in which Mr. Moulton was on one side and Mr. Tindal Atkinson, the late County Court judge, on the other. This case concerned the building of a pier somewhere down the river Thames. We went before an Official Referee, recently appointed, who, though an English as well as a Scotch barrister, had practised chiefly in Scotland, and was unknown to every one. Mr. Atkinson opened his case with the skill which gave him his great practice as a junior ; but undoubtedly the exposition was very long and the figures very complicated, and what with the Official Referee taking them all down and Moulton (a senior wrangler) pointing out at intervals that they

were all wrong, Atkinson was still opening at the end of the third day. On the fourth day, when he rose, the Referee showed signs of life. Atkinson waited. "This caaa-se," said the Referee, "is a perrrrfect scourrrrge," and relapsed into moody silence. So we got into the evidence. Before the Referee, on a separate table, stood a beautiful model of the pier. This model the scientific witnesses often used to illustrate their meaning, in the childish belief that this would instruct and even interest the Official Referee. Scientific witnesses do sometimes cherish this simple faith in themselves. About the twelfth morning the Referee rose from his seat, came round to the model, looked at it, and said, "Do I understand that this errrrrection stands in wotter." He was told that his surmise was correct, and returned to his seat. That afternoon the case was settled.

Our side had its own reasons for settling. The concrete for the caissons in this pier had to be made in the proportion of, say, four to one. We knew from our merchants' bills how much cement we had bought, and we learnt from the opening how much the caissons would contain. An instantaneous sum in mental arithmetic showed Moulton there was not enough cement to go round. A consultation followed, at which the client and solicitor alone attended. I am the only survivor of that consultation, which I have not forgotten. Moulton said, "What is the meaning of these figures?" The client protested he could show they were right. Moulton: "Unless you tell me the truth, I shall return my brief." The client (deprecatingly): "Well, Mr. Moulton, when we got the earth out in them excavations it was uncommon 'ard—I never saw 'arder earth. It seemed a kind of nat'ral concrete,

as it were. So we put it in the bottom of them caissons as a kind of foundation for the concrete." So the grocer might say that his sand matched his sugar so exactly in colour that it was a pity not to blend them. The odd thing was that the man seemed himself a little impressed by his own argument. But we all knew that the natural concrete was river mud.

Another Official Referee was the late Mr. Roupell. He was a gentleman of the old type, with many natural gifts, a charming wit and great powers of conversation. But he had had no practice, and did not profess to be a lawyer. He used to say that an Official Referee must be an expert chemist, an accountant, and an architect. He took long over his cases, and sometimes produced extraordinary results. But no one could fail to be struck by his high and honourable character. I once went to Grimsby with him for a case that lasted about three weeks. He would walk with the counsel after Court, and we were anxious to walk with him. Once some bells reminded him of the bells in his old home, and for some minutes he entranced us by his recollections of dead happiness. He was a close friend and great admirer of the late Lord Chief Justice Coleridge, whose stories he used to recount with brilliance. One of the solicitors once entertained both sides and the Referee at dinner. Mr. Roupell led the conversation, but at one point admitted that he was suffering great pain from rheumatism, which, he said, with him was chronic. The next morning a witness was telling us how on the Dogger Bank in summer the water was so warm that no fish would go there. "Not even a rheumatic old cod," said Roupell, smiling pleasantly. Fitzgerald, in one of his letters, speaks of one of his "great treats," namely, going to Ipswich Assizes to see

“ little Voltaire Jervis and old Parke, who I trust will have the gout, he bears it so Christianly.” The same might be said of Mr. Roupell’s rheumatism.

I once, when young and impulsive, went before a Master in Lunacy, now deceased. It was necessary to appoint a manager of the business of a man who had recently become insane. The contest was whether my client, his brother and partner, should be appointed or a wife whom he had married some few months before. We got before the Master about three o’clock on a Monday afternoon, and as his sight was very imperfect and my opponent’s voice was like my own, he constantly mistook one for the other. My opponent being a Chancery man, and therefore conscientious, read all the affidavits through. This and the Master’s confusion of persons took us on till after four o’clock. The Master then said, “ I shall give all Thursday to this case.” We both begged him to decide at once, as it was urgent that the business should be carried on without a break. “ All Thursday,” he said obstinately. On Thursday we attended, and I had to begin. “ I don’t know, sir,” I said, “ whether it is in consequence of anything that fell from you on Monday, but the lunatic died last night.” This was true in fact. “ Oh ! I trust nothing I may have said affected his health,” said the Master. “ I think not, sir,” said I ; “ you will remember the affidavits show that he had been a raving lunatic for some time. He had not been informed of these proceedings.” “ You relieve me very much,” said the Master ; “ what do you now propose to do ? ” “ I propose to go away.” “ But why ? ” “ Because you have no jurisdiction.” “ But is that so ? ” “ It is, sir. Whoever may have any jurisdiction over him, you have none.” The other counsel

confirmed my view of the law. " But I have given the whole of this day to the case. What do you suggest ? " On this point we had nothing to offer. So looking very sourly at me, he folded up his papers and said, " I suppose it must be so." What he did for the rest of the day I do not know. Perhaps he read the affidavits over again. But one thing was certain—the man was dead.

CHAPTER XI

EARLY LIFE AT THE BAR

IN my day and generation every Common Law man joined a circuit as a matter of course, and the sooner he did it the better.

I joined the Northern Circuit, which visits Appleby, Carlisle, Lancaster, Liverpool and Manchester, and shortly afterwards was elected the official junior of the circuit. The Northern Circuit entrusts its junior theoretically with absolute power. He presides at all circuit meetings, and is the master at mess. He pays circuit bills (except wine), and deals with the circuit servants. He keeps the records of the Courts held on circuit, and these have been preserved for the last 150 years. Boswell, after he had written the "Life," endeavoured to become a circuiteer, and joining the Northern Circuit, became its junior, succeeding Richard Burke, the much-loved son of the great Edmund. I have read his records in his own handwriting, often very shaky. His last entries include his accounts, which show that his personal representatives owe the circuit ten shillings and two pence. He says he is "clear," and proves by his figures that he is not.

In the eighties, at Manchester or Liverpool, on the first night of the Assizes, the junior presided over a hundred or more members of the circuit at dinner. At that time all the judges, except perhaps one, would be on circuit, and all the great leaders would be on their respective circuits. On the Northern Circuit eight or

nine leaders would go round the circuit. When I was junior, Mr. Russell, Q.C., and Mr. Gully, Q.C., had the lead. Herschell and Pope had recently left. Six or seven other leaders had their share of the work. At the two great towns there were some local juniors, but the best work was done by juniors in London, who came down on circuit just as the leaders did. Both at Manchester and Liverpool there were lodgings which depended largely on the juniors of the circuit. A man would retain the same lodgings from circuit to circuit. The celebrated bottle of "Roussillon" which Gully gave to Herschell and Russell, when (as they said) they all despaired for their future, was drunk in Gully's lodgings at Liverpool. At the hotels all the leaders had their private rooms, in which evening consultations took place.

The experience of a young man as the junior of a circuit may be very valuable. In practice he acts with the leaders, who decide on the policy to be recommended to the Circuit Courts in matters affecting their well-being. But the junior sees and hears what they say, and puts the various proposals before the meetings and decides all points of order without appeal. In my juniorship one night, after dinner, a Grand Court was being held at which opinions were widely divided, and feeling ran high among men who had looked upon the wine-cup. Unfortunately, Russell, Q.C., and Gully, Q.C., took opposite views, and still more unfortunately got up to state them at the same moment. Neither would give way, and some ninety or a hundred men were at once shouting wildly the name of their own man. The position was delicate, for Russell was the leader of the circuit and tenacious of his rights, while Gully was extraordinarily popular with the younger

men. Something had to be done, so I got up. As soon as I was on my feet dead silence ensued, for I was supreme. I said, with an assumption of confidence which I was far from feeling, "If Russell wishes to speak to a point of order, I shall hear him, as he is the leader of the circuit. If he wishes to speak to merits, I shall hear Gully, whose standing approaches more nearly to my own." This topsy-turvy ruling, being in accordance with the whole theory of the juniorship, was well received, and Russell very good-naturedly sat down.

From this circuit I returned to Common Law work in London. At first I was in Mr. Finlay's chambers with four or five other men. There was an immense variety of subjects in the papers which came into our pupil room, and any one who wanted to work could learn much. For our Master was one of the great juniors who thought it their business to teach their pupils and not merely to let them learn.

Life in London was in those days a pleasant thing for a young man who could earn a little money. I had the good fortune to get some small work, and sharing chambers with a friend at the top of an Inner Temple staircase, could live without undue anxiety. We did, indeed, lose all our boots on one occasion, but the thief never returned. We dined cheaply and well in the taverns round about, and never knew whom we might meet. The Attorney-General might be kept at chambers, or a great literary man might come to see the Cock. One night, in our box, was a short stout man of about forty, with brilliant black eyes and a mottled red face, who, in a gloomy, moody way, was dealing with a steak and some porter. A friend of his came in, under whose influence he brightened a little. By the time

they had got to hot whiskey and water our man was transformed, and talked divinely. We identified him afterwards. He was known as the "student," had been the best "coach" of his day at Oxford, had on one occasion achieved the feat of coaching every man who got a first-class in the final classical schools, and, purporting to be a barrister, was the leading "leader" writer in Fleet Street.

Another barrister, who lived in New Inn before it was pulled down, had been a Senior Wrangler, and I was given a letter of introduction to him. One summer afternoon, about five o'clock, after a sweltering day, I climbed up three pair of stairs and found his oak sported. On the door was pinned a large paper, on which was written in large letters: "To the Soda-water man. Not six dozen, but twelve." I never presented the letter of introduction, but could, I think, find in the Chancery Law Reports the only argument of his which ever got into the books. It was praised fully by Sir George Jessel, before whom it was delivered. There is a certain tragedy in that solitary report, for the man soon went under and disappeared.

Feeling, like Lord Campbell, that I should improve my dancing, in order, like him, to be "qualified to join the most polite assemblies," I took lessons in Bayswater with two friends, one of whom has since attained very high distinction both in politics and law. We attended our Academy twice a week, and shared with some eighteen or twenty others the instructions of a dancing mistress and her young assistant. Both men and girls were taught, so when we were not under instruction, we danced as well as we could till our turn came round again. Most of us were anxious to be taught by the assistant, a pretty, charming girl, who

danced of course as only professionals can, but would not necessarily devote all her time to teaching. My distinguished friend, even in those early days, was not led away by glamour. The mistress herself, a middle-aged, faded and slightly scraggy woman, gave him all the instructions in dancing which he received at that Academy. She was a first-rate teacher, but she could never teach that pupil. He might walk or amble or even run round her, but he could never dance. He took it all very good-naturedly, and during the intervals was supreme. At the end of the room was a refreshment bar, where you treated your partner to light refreshments and their genteel accompaniments. There was always a bottle of sherry, with glasses, on this bar. Here also the husband of the teacher was to be found, making himself as agreeable as he could. To most of us this sort of host, who was paid for what we took, was an awkward occurrence. My distinguished friend from the first moment mastered the situation. "Mr. Johnson, may I offer you a glass of sherry?" "Well, Mr. H., perhaps I don't know that I won't." Glass of sherry accordingly poured out. Mr. Johnson, alternately sipping and eyeing it, is moved to remark, "I always think, Mr. H., there is something unusually gentlemanly about a glass of sherry." "I have no doubt it is so," replies the other, blandly smiling, "You will take a second glass, I am sure." And so, to be sure, he invariably did.

In those days, and at that Academy, we moved slowly, and if possible smoothly, in our waltzing; one couple, who were engaged, were never more than three yards from the chandelier in the middle of the room gyrating slowly inside the general stream. When I saw the jazz dancing of respectable Americans in a great

hotel in California last summer, that couple came back into my mind, a vision of languid elegance.

At the Working Men's College, then in Great Ormond Street, there was much useful work to be done, and for some years I shared in the teaching. It was pleasant and not too exacting to go there two nights a week and take a class for an hour and remain afterwards to talk. We had also a cricket club, which did well. Quite recently I met at Lord's a man who, from the Working Men's College, had gone on to keep wicket for Middlesex and to become the managing director of a large bank. He had been one of the best students in my little law class, and when we met had retired on an independence. A great feature of the college was the Christmas supper, when old members came together in great numbers. On one occasion Tom Hughes, one of the founders, attended, bringing with him J. R. Lowell, then the American Ambassador to St. James's. Hughes was a poor speaker and very long. In his wandering speech he dwelt upon a previous American Ambassador, who had come with him to the college to take tea and had greatly enjoyed himself. His main topic was an old member of the college, a brushmaker, putting good bristles into good wood with the best workmanship. "He gave me," said Hughes, "a pair of brushes which I use to this day, and find them almost as good as new." Shortly afterwards Lowell was asked to say a few words. In a quiet, easy, pleasant voice he transformed the whole scene, which during Hughes' speech had become quite dull. "I remember," he said, "my predecessor in this Embassy. I knew him well. Your President has told you, that he came here and took tea with you and enjoyed himself. I take leave to doubt that story. There seems something

apocryphal about it. As I remember him, he had little use for tea. The liquor he affected was of a different colour and more potent character." Then proceeding to the brushmaker, he said, "I marvel at that brushmaker. We have no such artificers in my country. They do not build brushes for a life-time. And I doubt whether those brushes can have been as good as your President says. But," looking at Hughes' head, which was round and absolutely bald, "I will admit that the bristles must have been sound which operated so powerfully upon that head."

My first great case came to me early. It lasted for eighty-three days, being an arbitration before Mr. Petheram, Q.C., subsequently Chief Justice of Bengal, who died very recently in England. On the one side were Mr. Meadows White, Q.C., and Mr. Willes Chitty (as he then was), whilst against them was Moulton. I was put in to help him as best I could, and was thought lucky to be paid three guineas a day. "Refreshers" in those times were in their infancy. The action was a remarkable one. A wholesale merchant supplied one of the great stores with large quantities of goods for three of their departments. One day the stores refused to pay his monthly account. He sued them, and they replied by saying that for the last ten years he had bribed their buyers in all the three departments, and had inflated his prices to recoup this commission; they therefore claimed to rip up the accounts for the last ten years and recover amounts overpaid. The stores had dismissed all three managers and prosecuted one of them to conviction. The merchant had dismissed his town manager, who had had dealings with these three men. It was undoubted that considerable bribes had been paid or extracted, and the real

question was whether these stores had in fact paid more for what they got than other customers of the merchants. Each side called as witnesses the persons who had been dismissed by the other side, and the case from time to time was dramatic. In the intervals Mr. Moulton and Mr. Chitty would necessarily be away sometimes, when less continuous actions demanded their attention. Then a junior of three years' experience shared with the respected Queen's Counsel afternoons and even days of unexampled dreariness. At one period this leader, of whom it might perhaps be said that he was a better lawyer than cross-examiner, had for some days been trying to extract something which was both intelligible and damaging from one of the dismissed managers. I think this man wanted to make a clean breast of the whole thing, but did not know how to do it. His bribes had been almost contemptuous, and he had never had much chance of doing harm. Under these circumstances, as neither counsel nor witness ever seemed to understand what the other was driving at, we sometimes came almost to a standstill. One day, at lunch time, I followed the arbitrator down Chancery Lane, and, having a notion that counsel should not speak to an arbitrator, merely took off my hat as I passed him. He grasped me by the arm, reduced my pace to his, and in a sad, soft voice said, "Meadows White on Billy Hosier" (the witness), "Oh, my God!" After which I was more at ease with him.

The first crossing of swords took place at the examination of a witness who was going abroad. The manager who had been convicted very naturally desired to leave the country when he had served his three months. He therefore came before a special examiner, whose powers were to administer an oath

and take down what he said. The man was a very clever fellow, and not without a sense of humour. The question constantly arose whether in cross-examination his conviction should be put to him. On this there was a difference of opinion between the leader and his client. From time to time the leader would clear his throat and begin, "Now I must ask you a very serious question," to which the witness would at once reply, "Now, Mr. White Meadows"—a constant mistake—"I know what you mean, I am going to ask you as a man, do you think this is quite fair?" This always choked off the question, and the cross-examination was ending without the question having been yet asked, when the leader and solicitor again conferred, being watched by the witness like a lynx. Finally, the Queen's Counsel said, "I have nothing more that I wish to ask this witness." "No questions," rapped out Moulton. Then the other side's solicitor insisted that the question should be asked, and the counsel said, "I think I must ask a further question." "You cannot," said Moulton, "the examination is closed." Protests followed this, but the examiner held that he had no powers to re-open the examination. Then they said they would get an order to examine him to-morrow. That did not perturb Moulton, and he said so. "Why not?" "Because his boat sails for Australia this evening." The man in fact left that evening, and the arbitrator never knew from any evidence that the conviction had ever taken place.

This piece of strategy on Moulton's part was much discussed in legal circles at the time. Many said it was unwarrantable, others that it was unexceptionable. It has always seemed to me that the circumstances were very special, and that Moulton was entitled to do what

he did. The witness had, to our great astonishment, induced the cross-examiner to postpone the question on several occasions, and if the counsel who called him had the good luck—as Moulton had—to think of a way of preventing the question being asked at all, it was surely his right, if not his duty, to be strict. In a criminal case all strictness is a matter of course, and in this particular case the ordinary features of a commercial case were of minor importance. It would have had a great effect upon the arbitrator if he had known that this witness was a convicted criminal.

The third of the buyers was intensely interested in the case, treating it as a sort of living novel. He himself always attended in blue spectacles, because—as he confided to me—it would prevent the other side from seeing the movements and changes of his eyes.

The town manager of our own client was a disappointment from the spectacular point of view. Moulton had long considered the course that we should follow, and our solicitor—who was a great student of law trials—had found a cross-examination of a spy in the treason trials of George III.'s time, which he proposed as a model. This showed his views of the witness with clearness, but did not assist us materially. After the ex-manager had given his evidence in chief for several days, Moulton began, "What is your present address?" "I decline to answer"; and it seemed that the whole effect of his testimony had disappeared. "If you don't," said the arbitrator, "I shall strike out all you have said." "Well, I will tell you, if they promise not to turn my creditors on me," said the witness ruefully, and was thereafter cross-examined at length. Our case was greatly helped by the cross-examination of the chairman of the stores,

a man of very great ability. We thought, but were not sure, that he himself had given bribes to the servants or agents of customers ; he thought that we had information, but did not know how much we knew. The rapier play between him and Moulton was brilliant. At last he said, " Of course, if a very large order came, say from a Colonial Government, and their agent here had been very useful, and the profit was large, it might be admissible for me to recognise the value of his services by some small present." Moulton passed on smoothly to another question ; the examiner took a note and waited for the next answer. The witness seemed to think he had got round the corner rather nicely. Twenty or thirty days later, when the counsel were making their final speeches, the arbitrator quoted this answer verbatim, saying it had been photographed on his mind from the moment it was given. A model arbitrator !

At this time I used to visit a widower who lived in a large house with one son and many servants, and was frequently glad to entertain at dinner some one who would talk to him or hear what he said. One evening he told me that his French master was coming that night and invited me to stop and join in the conversation. Shortly after dinner the Frenchman arrived and began to talk. The accent to my ear was exquisite, but became of minor importance when I learnt that the speaker had been the Treasurer of the Commune, in Paris, after the Franco-German War. He seemed under forty years of age, and had the visionary look of the enthusiast or martyr. On his trial, after the suppression of the Commune, no evidence connected him with any outrage. He had had charge of the Bank of France for about three weeks, and of the many millions of specie

which it contained. The only part he took in the trial was to assert, and prove successfully, that he had resisted all the efforts of his colleagues to get the money distributed to the Communists and, after allowing thirty francs a day for himself and his wife during the time of his guardianship, had handed over the nation's balances intact. Of his voyage to Cayenne he spoke like a philosopher. "Two classes of prisoners," he said, "are sent to Cayenne, the worse criminals and the most extreme politicians. In every ship there are more of one sort than of the other. If the majority are criminals, the politicians have forgotten their politics when they get to Cayenne, but are dangerous men. If the majority are politicians, the criminals in the same way have lost their criminal impulses, but are enthusiastic devotees of reform." He had escaped from Cayenne, and on this part of his life nothing was said. He had much, however, to say of the Republican writers and their newspapers under Napoleon the Third. One day, Henri Rochefort and he and others were about to start the usual journal, which ran for three weeks and during that time scarified the Imperial Court. But they had run out of responsible editors. Living at Auteuil, in poverty, our Communist bethought him of his landlord, a small market-gardener, who on enquiry said he was a good Republican. Asked if he would care to be the editor of a newspaper, he expressed doubts as to his ability. Being assured that he only had to be responsible, to draw a good salary, and to go to prison if necessary, he agreed to do this for the cause. For some few weeks he revelled in his idleness, and then accompanied the rest to the most comfortable of the prisons—I think St. Lazare was the one—where his happiness was made complete. Being merely under

arrest, they could supply their own food and take exercise and read. Their supporters supplied these martyrs with the best that France could yield, grapes, pineapples, grouse, burgundy and liqueurs. The responsible editor left the prison with reluctance, and from that time became a burden to his brethren. Two or three times a week he would come up to headquarters to ascertain if some new effort could not be made to promulgate their principles. He himself was prepared to take all responsibility for any journal of which he might be made the responsible editor. That any should be lukewarm in their cause he could not understand.

In these years Colonel Mapleson, at Her Majesty's, was an inspiring force. I remember the production of Boito's "Mefistofele." Arrigo Boito died recently, having spent his life in writing "Nerone," an opera which has been brought out since his death, and apparently will not live long. He wrote, incidentally, the book for Verdi's "Otello" and "Falstaff," and apparently inspired the old musician with the vigour to compose these two great works. He must have written "Mefistofele," that great masterpiece, when very young. It follows Goethe's work closely, and thereby no doubt tempts fortune; for he has a prologue in heaven, in four parts, during which the stage is empty, then two Acts, Easter Sunday and The Garden, then the Witches' Sabbath, then Act three, The Death of Margaret; then bringing in the second part of Goethe's Faust, Act four, The Night of the Classical Sabbath, and, finally, an epilogue, The Death of Faust. In Colonel Mapleson's production, Madame Christine Nilsson and Madame Trebelli were his ladies. I think Campanini was one of the men. But the unforgettable things were done by the women.

Their duet, *La luna immobile*, has, in a sense, come into its own. When first heard, in its proper setting, it produced a profound impression. It is sung at the beginning of *The Night of the Classical Sabbath*, by the banks of the river Peneus, in the Valley of Tempe, and the scene at Her Majesty's was extremely beautiful. No one who ever heard Madame Trebelli in opera could fail to marvel at her. It was not merely the beautiful mellow notes of the voice, but the dramatic sense with which she carried the play on. This particular duet might have been written for Madame Nilsson, it suited her voice so exactly; but Trebelli was never playing second fiddle; you never asked yourself which was the better of the two, so perfectly did she harmonise with the soprano. In the garden scene, in the second act, Madame Nilsson seemed at first a trifle statuesque, relying simply on the astonishing beauty of her face and voice. But as they went on, she seemed to catch inspiration from Trebelli, and in the last great quartet,¹ while the three bore the burden of the music beneath her, she was swept away on the tide of the melody and her notes quivered, throbbed, pulsated faster and faster, while the music quickened and then hurried and then rushed to her final cry of hysterical ecstasy. Compared with this noble opera, Gounod's *Faust* presents a vulgar and greasy appearance. Nor does the subject seem to have quite suited that most original genius, Hector Berlioz.²

Of all the actors I have seen, Joseph Jefferson got

¹ "Dio clemente, nuova, ignara del mondo," Margaret begins. "Come un mormurio" and "pianissimo" are the entrancing musical directions.

² Berlioz' autobiography is delightful. Thus, walking one day with Mendelssohn near Rome, he troubled M. by some rather heterodox language. Soon afterwards the good M. ran down the hillside below the road to pick some flowers, and, tripping over a stone, fell with a sprained ankle; to whom Berlioz, from the road above, "Voyez donc la Providence. C'est moi qui blasphème et c'est vous qui tombez."

to his audience most quickly. From the first time he said "Ma dog Schneider," they were at his feet.

I saw Salvini on the occasion of his last performance of "Othello" in England. Mr. Gladstone was there in a box, Lord Tennyson, Browning, Millais, Sir Frederick Leighton, and presumably everyone else who counted in artistic matters. The Covent Garden House was packed. Salvini must have stood well above six feet. He was broad and big, but his movements were all easy and supple. His voice was rich and full and mellow. In the quiet parts it filled the house easily. But you almost neglected the beautiful scene in Cyprus in your haste to get to the third Act. Salvini's Iago was a consummate artist; he was of course small, and looked very ordinary and industrious, an honest subordinate who had not succeeded too well in his profession, and was perhaps a little cynical. The first suggestion against Desdemona, Othello did not grasp; when he saw what Iago meant, he took him by the back of the neck and threw him across the stage. But Iago picked himself up and returned, with the air of an honest man who must do his duty, and on his second attack Othello paused and reflected. He never threw Iago away again. The bull-fighter had safely placed the darts in the shoulders of the bull, and went on to drive the noble creature mad. But Salvini was always dominating the whole scene. Your only thought was, "How tragic such exquisite misery in so great a soldier!" In the killing of Desdemona my recollection is that Salvini played in a low key, muttering and murmuring his language, and, as if compelled by fate, pressing out her life with two or three terrible compressions of great hands. In the last scene he stood quietly enough and told how he had done the State

some service in a clear recitative which lulled them all, and then went on, with slight animation, to describe how the Jew at Aleppo had traduced the State, and how he, as they should remember, took by the throat the circumcised dog, and smote him—here he flashed out his sword and, with the most glorious gesture of dignity and courage, plunged it into his heart, and as he was striking called 'out Così¹ in a voice that the dead might have heard, and fell instantly in a huddled heap,

E cadde come Corpo Morto Cade.

On one occasion, wandering alone along the Strand, wondering where I should dine—for I had then no club—and wishing for company, I met a delightful man whom I had seen once or twice at Oxford in the rooms of his cousin, who was a friend. This man proposed, in his fascinating way, that we should dine together, and at some place which I should choose. I took him to one of the smaller foreign restaurants then in the neighbourhood of Charing Cross. Before we had finished there came in and sat down at the next table a man and a girl, not very different from many such couples in the room, except that the man was exceptionally loutish and the girl exceptionally pretty. My companion was very good looking, beautifully dressed, and altogether noticeable. He soon confided to me that it was intolerable that this man should not be more polite to this woman. By this time the girl began to distinguish him from others, dropped her napkin or handkerchief on his side of the table, and received it from him with a smile. My companion apologised to the lout for interfering, got into conversation with him,

¹ " I took by the throat the circumcised dog
And smote him — thus."

and made him smile, finished his dinner, and got leave to take his glass to their table ; and thus ultimately left the restaurant for a music-hall in their company. The whole proceeding took my breath away, and I hoped to learn in a few days the upshot of the adventure.

I heard and saw nothing of my companion for two or three months, when a long letter arrived saying that he was in France and had become, or was about to become, a Trappist monk. His theme was that he knew the pleasures of the world were many and exquisite, but that if by denying himself for his lifetime all such pleasures he could obtain the happiness of heaven, an eternity of such happiness must compensate a thousand times for the loss of a few years of earthly enjoyment. And so I lost sight of him for all time. He died a few years since, having faithfully carried out the first part of his strange experiment in moral education. I suppose I was in this man's delightful company for perhaps, in all, as many hours as I have now lived years. But in moods of reflection his transient image visits me more often than the remembrance of many well-known friends. It is a haunting presence which I would not be without.

“ὄναρ σκιᾶς, dream of a shadow, go ”—and go in peace.

CHAPTER XII

INDIA

WHEN I had been ten years at the Bar, and was in full work, a strange chance came my way in a complicated case of administration in bankruptcy. The bankrupt, before the age of twenty-nine, had twice made and lost a fortune, had twice been divorced, and had shot himself. His speculations were in jute, and depended on transactions in India. Two of the persons on whom he had claims were in Calcutta, and by some arrangement which I never understood I was sent out one long vacation, by the consent of all parties, to examine them. The amount offered would pay expenses and leave a moderate margin. I jumped at the offer, turned my back on a wife and young daughter, and within forty-eight hours was heading for Brindisi to catch the Australian boat, from which to tranship at Aden for Bombay. I have never regretted my decision.

The Australian boat was very full of Australians, but a mere handful of Anglo-Indians were to be dropped at Aden. Among them, however, was an Indian princess who had been to England. She lived in strict seclusion—behind the *purdar* or curtain—and was not to be seen by men. This was accomplished on ship-board by shutting off an enclosure amidships in which there was room for her tent and a little space for exercise at night. The upper deck looked down on this enclosure, and of course there were generally

colonials lolling on the rail to see what could be seen. At her meal-times the crowd was quite considerable. Her man cook made a tiny wood fire, and squatting on his heels, built up microscopic dishes of curries and vegetables, dropping in a pod or grating in a biscuit, smearing his rice or pulling his chicken-leg to pieces. When the princess came out to walk at night, the captain kept the place clear. This to the colonials seemed high-handed.

On our first afternoon out we were coasting along the Ionian Islands, and at Ithaca had a full view of the long white path over the hills by which Ulysses went from the swine-herd's hut to his own palace. Assuming the hut to have been where Homer says it was, Ulysses could only have gone by this path, owing to the precipices and cliffs. But it is not easy to speak with certainty, as the hut disappeared some time since.

The blue of the sea under the shadow of the rocks was a noble sight, and the eyes were never sated with the colours of the aerial foam—azure shading into green and green fading into white—the shiver of the drops in the sunlight, and the life and brightness of the water beneath.

On the next morning out, far away to the north, was that beautiful sight, the head and shoulders of a snow-covered mountain which, rising from the deep swathes of cloud and mist, seems to belong to another world. This mountain might have done so, for it was Mount Ida, in Crete.

The next object of interest was a number of houses, two or three miles away, standing up to their knees in the sea, with no visible land to support them. This was Port Said. The ship was soon through the canal and the lakes, and steamed down the Red Sea, making a

breeze for herself. The next day she passed a lighthouse standing on a ledge of brilliant yellow rock, which might have been cut off by a razor a few feet above the sea. Here the heat was steaming. On the first floor, under great awnings, men were idly fishing in the sea 30 feet below them. Our purser catered for his Australians on a liberal scale ; " good strong, thick, stupefying " soup, boiled salmon and hot roast beef, hot boiled mutton, turkey, chicken or goose ; all very good of their kind, and just the thing for the Red Sea in August in the days before electric fans. However, in the afternoon you could get your deck chair close to the side where a little breeze came trickling along ; and it was worth a good deal of inconvenience to enjoy fully the night on deck. First you watched the stewards carry up the mattresses, then you went and shed your clothes, then you got your tobacco, and in the rainbow colours of a thin dressing-gown stretched yourself on the mattress, with a friend at your elbow to talk to. We might have been a senate of moths. Then came in the sweet of the evening. The night wind came softly along the ship, the rigging shivered gently to the faint breeze, and we felt the edge of the chill. In the rich silence sometimes you caught an order given by the officer of the watch, pacing up and down far above you, or you heard her bell go in the night. In a sky of the darkest blue—for fortunately there was no moon—you watched the great tropical stars pulsing with light. Lying there a man might muse with some solemnity of thought on " this goodly frame the earth, this most excellent canopy the air, this brave o'erhanging firmament, this majestical roof fretted with golden fire." In those climes the infinite seems very near at night, in summer, upon the sea.

Mr. Doughty recounts how the Arabs sit for hours in the darkness talking by their tents. As our ship slid past the unseen Arabia, her passengers also talked long into the night. Memory recalls a young man who was in the Indian Civil Service, returning from leave. He was in charge of a district some eighty miles by forty, far north of Bombay, where he was the only white man. He lived in a tent, and travelled about the villages with a Parsee secretary. In the morning he was a Judge with great criminal and civil powers ; in the afternoon he and the village elders in Parliament discussed taxes, famine and money-lenders. He was in his second year of service, and took his responsibilities without doubts or anxieties, and with a great deal of quiet enthusiasm. His companions in his solitude were the classics. And speaking of the classics, he also spoke of a colonel and major who had long served together, and being bachelors were close friends. To two solitary men in exile, friendship must be everything. Ὁ γὰρ ἀγαθὸς φίλος γινόμενος ἀγαθὸν γίνεται ὃ φίλος.¹ The colonel became a general, and the major succeeded to the command. The regiment gave the general a dinner, and the new colonel proposed his health. He did not speak at length, but ended by saying that if the general ever commanded them in any war, his old regiment would follow him with enthusiasm. "*Ibimus, Ibimus,*" he quoted in his happiness, "*Quocunque precedas,*" and stopped. Within a fortnight fate had completed the quotation : "*Ibimus, Ibimus, Quocunque precedas, supremum Carpere iter comites parati.*" Both were stricken down with cholera, and in this manner—*per iter tenebricosum*—the major followed his colonel and left the army in his company.

At Aden twelve first-class passengers went on board

¹ For a good man who becomes a friend becomes a good thing for his friend.

the "ferry boat" which plied between Aden and Bombay. She had been a German boat, and the saloon was decorated with pictures of the German victories over France. One or two officials returning from leave, a colonel from Madras, with his wife, the Chief Justice of Bombay, a Calcutta merchant, a tea planter from Darjeeling, and a bookmaker in a large way are those whom I remember. We had no purser, and the quiet epicurean captain, with his native cook, gave us cold soups, curries, cool salads and fruits off the ice. We ran into the tail-end of the monsoon, and for two days the ship showed what she could do. Our captain told us she was a very fine sea boat, and she certainly shipped very little water. We next ran into dead calm, the course was set for Bombay, and the wheel was not turned once during four days. There was not much in common between the occupants of the first cabin; the Chief Justice was old and dignified, the officer and his wife missed their military society, and the merchants were merely pleasant. In these circumstances the bookmaker was a spring of water in a weary land. He had been the centre of the commoner elements on the Australian ship, and there I had made his acquaintance. He was talking and walking and laughing and joking from morning till night, perfectly irresponsible and perfectly unbridled in his language. He first fastened on me after playing some deck game with his usual skill. Having extolled lawyers for some time, he explained carefully who he was, and what he did, and suddenly asked if I knew why he had been to Europe. No, I said. "Tombstone for my wife; died suddenly last April; no one fit to carve a tombstone in Calcutta; had to come home; all arranged now; there's the photograph. 'What do you think? Candid opinion.'" Thus

talking, like Mr. Jingle, he thrust into my hands a cabinet-size photograph of a large and execrable monument. Mr. Pater, being asked his opinion of a wedding present, is reported to have stammered, "Very large, very unusual, very expensive, I'm sure—but the man mustn't do it again." I said the monument seemed a fine thing. "Glad you think so. What about the price? White marble—all of the best." I could not guess. "£1,000," he said, "here's the contract," pulling it from his pocket. "All inclusive, erected complete in Calcutta cemetery; no free on board."¹ Then suddenly, "Excuse me, must speak to that woman; propose to her before Aden"; and the disconsolate widower hurried after an ample petticoat.

On the ferry boat this treasure was on his good behaviour at all meals. He told me the lady had refused him (which misfortune he bore very philosophically), and regretted there was no one "to make up to" on the new boat. He then set to work to get into the good graces of the Chief Justice. This was no easy task. The Chief Justice knew him perfectly well. However, one morning he yielded and condescended to explain that he never understood how a bookmaker could make money. "Show you in a moment," cried my man. "Sweep on the ship's run: half-crown tickets; £1 first prize, 5s. consolation." This we could all understand, and after lunch twelve half-crowns were collected, including one from the Chief Justice. Now the Chief Justice was said to like small gains but to very much dislike small losses. The numbers were immediately drawn by the bookmaker. The Chief Justice got a very likely number, and affected to be indifferent to his luck. The next day he had won £1, the lady had got the 5s.

¹ My memory says he used this phrase. I hope it was so.

consolation, and two half-crowns still remained in the bookmaker's hands. The Chief Justice admitted that his doubts were completely solved. He never dreamed that the bookmaker had got from the engineer the number of miles we should run in the twenty-four hours—for in that sea the rate was quite uniform—had arranged with all of us that our gamble should be confined to the consolation prize, and that he should hand out the winning number when the Chief Justice's name was called. I asked the arch-plotter why he had taken all this trouble with the old Judge. "Never can tell," he murmured; "seventh commandment; crime in India; might be useful," and so slipped away to deck quoits.

The journey between Bombay and Calcutta took between fifty and sixty hours. The sleeping car was a square room, with couches at the sides and a shower bath at the end, in which the "boy" squatted with soda-water and ice. My only companion was a pleasant captain. We climbed the Ghauts in the evening, dining at a little station in the stationmaster's garden by candle-light. When we returned our berths were ready under the windows, and we began to cross the great central plains. We lay each by his open window, and in the half-light looked idly over the immense stretches of country. The air was full of electricity and the sheet lightning was playing in many places, perhaps five perhaps ten miles away. In one distant spot a great thunderstorm was in progress, in which the mountains of cloud opened at times, disclosing dull red caverns. But no sound could be heard.

Waking on the second morning, we saw Calcutta lying below us in a sickening pink haze. The city was deserted by Europeans, and in the afternoon I

learnt that my witnesses had gone to Darjeeling. The same evening I followed them. The journey was sufficiently distressing. The last stragglers were getting away, pale and washed out, and through the night the children were wailing and the *ayahs* crooning to them in their soft patient tones. The low-lying lands through which we passed reeked with heat, and the train was full. However, by mid-day we reached the mountain railways and, climbing some seven or eight thousand feet, got to Darjeeling for dinner in the cool of the evening ; nor was the cool unpleasant.

My witnesses I found on the promenade next day. They congratulated me on coming so far to find them, and promised to come and be cross-examined, which in fact they did after some days. I found two objects of interest at Darjeeling : Kinchin-junga and Sir Robert Hart. After breakfast I had stepped out upon the hotel verandah, and there was the mountain before me. The whole of the morning sky to the north was clear, and in the midst, fifty miles away, a triangle of white snow went straight up into the highest heavens, a glorious sight.

Sir Robert Hart was kindly and communicative. It appeared that the Chinese and Thibetans had some matter of customs to settle, and the Thibetans had withdrawn a year or two before from the conference into their own country. Sir Robert had come round to Calcutta by sea and up to Darjeeling. Being asked where the Thibetan Ministry were, he pointed across the pass to the north-east, " About seven miles beyond the pass," he said. " Do they know you are here ? " " Yes, and they know that I know that they are there." " Will they see you ? " " Yes, they will come up to the border at the top of the pass." " When will that be ? "

"In about seven weeks." It appeared that the Thibetans had withdrawn to the furthest point from the Chinese Empire and dreamt of security, whereupon Sir Robert had executed his masterly flanking movement.

Returning to England, I turned aside at Agra. The Taj itself is dazzling in its whiteness, but its beauty is greatly enhanced by the green grass and long water-spaces which surround it and the tombs in red sandstone, in which at four corners are buried the four great ladies who enjoyed the friendship of the Empress. I learned recently, with relief, from an Indian officer who had been stationed a year at Agra, that after a time the shape of the dome ceased to give his eyes satisfaction, and finally the whole Taj palled upon him. Of the walls of Agra and the palace above he never tired.

Indeed, no one should tire of those red sandstone walls, of great height and a circuit of miles, nor of the palace, looking from the heights upon the Taj and the great river below. In the famous "pearl" mosque the western wall is broken by a receding shrine of perfect snow-white marble which points to Mecca. There is also such a shrine in the Mosque, at Cordoba, upon the eastern side. And so Mohammedans from the east and from the west turned in their evening prayers to Mecca, and "seemed to be together though absent, shook hands as over a vast, and embraced as it were from the ends of opposite winds."

On the return journey we went straight through from Bombay to Brindisi, being quite a small company, but carrying mails. In the afternoon, going down into the card-room, I found a captain in a marching regiment, an official of the Bombay Custom House, two other Englishmen, and a native, tall and handsome,

with rich new clothes and much jewellery. He was a wealthy merchant, and had married an English wife. We cut for partners and I drew the native, against the civil servant and the captain. The native was excited ; his face was flushed and his hands shook. The captain dealt. In gathering his cards the native, through sheer nervousness, dropped a card which fell face uppermost. "Pick up that card, sir," said the captain, "your partner might see it." "You don't think I dropped it on purpose?" said the native. "That's as may be," replied the captain. "I won't play with people who think I cheat," said the native. "Nobody asked you," said the Customs House gentleman. The native dashed his cards upon the table and stormed out of the room. The other two men cut to come in, and the game proceeded in perfect calm.

The native and his wife slept near me, and in the night I was awakened by her cries. I listened and, being satisfied that he was beating her, sent to their room an English steward. The next day the wife came on deck, the picture of dejection and misery, and tried to speak to the five or six ladies who were travelling. One after another they turned away from her, and refused to speak a word. At lunch I told the story of the night to a lady of much intelligence and, I am sure, of humane and sympathetic nature. She told me that I did not understand. During the whole voyage no one spoke to the native, and, excepting myself, no one spoke to his wife.

When passing through the lakes we were stopped, and a small tender brought out an English officer from the Egyptian army. His Egyptian servant brought his luggage on board, and returned to the empty deck of the tender. There, as she drew off, he sat down in the

fierce sun and burst into such an agony of grief as I have never seen. The tears streamed down his cheeks, and his whole body was convulsed, as he swayed to and fro in his passion. The captain waved his hand to him from time to time, but when we lost sight of him he was still beside himself with wretchedness. This captain was pleasant, but strange. He sat alone a good deal, and at meals said little, ate less, and drank soda-water. When we parted at Brindisi, he confided to me that he had had a bad bout of *delirium tremens* in Egypt, and had come away determined to cure himself. I hope he succeeded.

At Brindisi we found waiting for us in the train a Queen's Messenger in his own special compartment, with a bed on one side and a big table in the middle, on which he was playing a "Patience" which required either four or eight packs. At night he locked himself in with his bags and his revolver. As we were carrying the mails, we tore across Europe in a special train. Reaching Calais on Sunday morning we found the day boat gone and a special boat waiting. The captain's dinner was just ready. The day was fresh and autumnal. The dinner was roast leg of mutton onion sauce and boiled potatoes. The passengers finished the mutton and drank deep into the stock of beer. Such are the joys of those who return from the tasteless meat and limited alcohol of India. I landed at Charing Cross twelve weeks after I had left it, and plunged again into the fogs of November and the Law Courts.

CHAPTER XIII

SPECIAL CASES

THE great Lord Bowen once said that the profession of a barrister was preferable to all others on account of its variety. This is probably true even now, but specialisation has even at the Bar advanced very rapidly in the last thirty years. At the present time a barrister is often a "libel" man or an "accident" man or a "County Court" man, or a "Commercial Court" man, to say nothing of "patent" men and "Local Government" men, and "Divorce" men and "Admiralty" men. No doubt the expert is of value even in branches of the Common Law. But remembrance may sometimes recall with a kind of pleasant regret the junior in great practice who went all round a circuit dealing with all sorts of work as it came along, and returned to London to tackle commercial work at the Guildhall or Colonial Law in the Privy Council. Forty years ago things were more varied than now.

One of the first large cases which came to me had been in existence for five years before I met it. It was a case concerning a vast stretch of foreshore to the east of Shoeburyness, the Maplin Sands. The continually increasing range of great guns made it necessary to fire over these sands. All foreshore *prima facie* belongs to the Crown, and my clients, the lords of a neighbouring manor, had to show that they had a better title than the Crown. The struggle commenced by the Crown launching an English information, which before the

Judicature Act would have been filed on the Equity side of the Court of Exchequer. Latin Informations were equivalent to Common Law actions by the subject, and were so called because the pleadings (until about the time of George II.) were made in Latin. Equity always spoke English, whether in Chancery or in the Exchequer, and it never spoke more inequitably than in an English Information on the Equity side of the Court of Exchequer. It is a curious illustration of our persistency in custom, that the practice in these English Informations is practically the same as was followed in the Star Chamber of baleful memory. An old maxim of the law says "*Nullum tempus occurrit regi*," and until the reign of George III. no possession was safe against the King or the blackmailing of the Stuarts. Under the Nullum Tempus Act sixty years' possession is sufficient to establish a man's ownership of land against the Crown. But nothing has ever been said by the Legislature as to the time which the Sovereign (or any small public office on his behalf) may occupy in establishing his claims to foreshore. Thus in our case the Queen, five years before I came into the case, had filed her Information, and within a reasonable time my clients had filed their answer, and sworn that its contents were true. For an English Information was turned into interrogatories which accompanied it, to be answered by the defendant on oath. This was ludicrous enough; for instance, "Is it not the fact that His Majesty from time whereof the memory of man runneth not to the contrary, or some other and what time, has been in possession of the whole of the foreshore in dispute in this suit or some and what part of the same? Is it not the fact that, etc." But the sting of the interrogatories was in the tail, where a general interrogatory called upon the

defendant to disclose all his documents, answering according to his conscience, and thus possibly revealing to the Attorney-General a weak point in his armour.

This answer having been given, the Crown was from time to time asked to put the case down for hearing and from time to time replied that, presently, they proposed to present the defendant with a new information, based presumably on the knowledge they had obtained from his first answer. Being asked when this new claim might be expected, the Crown replied that this very much depended on circumstances ; and, inasmuch as research showed that they could amend as often as they pleased and take as long as they liked on each occasion in shaping their new amendment, the hearing of this English Information seemed likely to take place on the Greek Kalends. Our client was a man of determination, and Sir Richard Webster, the then Attorney-General, had preserved a sense of fairness from his athletic youth. Therefore, at the present day, it is part of the Statute Law of England that "in the suit of the *Attorney-General v. Emerson* time shall run against the Crown as if the suit were an action between subject and subject." This clause was inserted one evening by consent, in some Government Bill on some other subject.¹ This clause in our statute set things moving. The documents "discovered" by the defendants were very remarkable. The manor was mentioned in Domesday Book. It had been the subject of a royal survey in the time of Henry the Fifth. Its court rolls, with some slight gaps, ran back for centuries, and were as a rule well written. I read them one

¹ I believe an old Highway Act contains the proviso that "all future Wardens of Wadham College, Oxford," shall be allowed to marry. In other countries, influenced by Roman law, the rule seems "one law, one subject."

long vacation. The handwriting was best in the time of the Plantagenets and worst about the Restoration. In the result the defendant swore that nothing in his documents impeached his title. Thereafter, *Attorney-General v. Emerson* became an authority for the proposition that when a man is dealing with technical and special documents, as to which he cannot properly be expected to form an opinion, he may be compelled to give production of such documents. In fact the documents asked for were produced, and in fact they did not in any way help the Crown. So that the man had sworn truly ; not that the principle may not be right.

The argument of this point in the Court of Appeal was interesting enough. Lord Esher was a strong champion of protection for documents and laughed at Mr. Vaughan Hawkins' argument in favour of production ; while Lord Justice Baggallay seemed to agree with him. But Lord Justice Lindley, the junior judge, maintained a disquieting silence. It may perhaps be mentioned that Mr. Vaughan Hawkins was one of the few Chancery juniors of that time on whose opinion money could be borrowed. If he accepted a title, any money-lender would do the same. What he said about wills was classical. He spoke for several hours on two days, and in the end he dominated Lord Esher.

Mr. Hawkins was a most tiresome and ineffective speaker, but most obstinately continuous. He would hesitate and sometimes half stammer, then start a sentence and then think better of it, then hark back to his first notion and finally dive beneath the desk for an authority. For he kept his books in his red bag or red bags on the seat beside him, and a pointed question from the Bench would result in his saying, " Oh ! no, my Lord," and diving for the authority which would

show that Lord Esher was again wrong. All this with an air of considerable superiority. For Mr. Vaughan Hawkins, who had been a senior classic and fellow of Trinity, Cambridge, did not think meanly of his own fine intellect or highly of the Common Law mind. On one of the arguments in this endless case, when Mr. Hawkins had insisted on some monstrous subtlety, Sir John Rigby (who then led me) turned round and said, "This man has as fine an intellect as Selborne. He might have done anything, if he could have avoided points like these!" Vaughan Hawkins was a bachelor, and devoted to Harrow, his old school. He produced "Hawkins on Wills," with which it is thought, at Common Law, you can do anything in Chancery.

When the case came on for trial, each brief included six red leather volumes of documents, which looked impressive. It was a trial at bar, that is before the full Court. The judges were Mr. Justice Mathew and Mr. Justice Cave, both first-rate judges, who often sat together and supplemented one another's merits; but they would neither of them have pretended to have any great acquaintance with real property law. Our original leader had been Mr. Alfred Wills, Q.C. He was appointed a Judge shortly before the trial, and his place was taken by Mr. Arthur Charles, Q.C. From that time we steadily shed judges from our team until we finished in the House of Lords. The Judges being both quick, the trial only occupied about ten days in the month of July; and Mr. Justice Cave took the long vacation to prepare their judgment. Mr. Justice Willes did the same for his judgment in the foreign attachment case (*Mayor of London v. Cox* (1867), L. R. 2 H. L. 239). But his judgment was of value.

The fishing on these sands was carried on with some

elaboration. There were set up on end in the sands hundreds of posts on which the nets were hung, which caught the fish when the tide ran out. These "engines" were known as "kiddles," and the fishing was "kiddle-fishing." One afternoon Mr. Justice Cave suggested that this gave an explanation of the phrase "a pretty kettle of fish."¹ After the vacation we got an unwieldy judgment, deciding that the defendant had only a right of several fishery in the tidal waters and did not own the soil. This was a great blow to our hopes, and a few weeks later Mr. Charles was created a judge. To check this disagreeable flux, the defendant went across to Chancery and retained Mr. John Rigby, Q.C., then in the height of his powers and associated with him, Mr. Jeune, Q.C. With this team we got everything we wanted in the Court of Appeal, who said we were entitled to the soil of the foreshore for many miles along the coast. Incidentally, Lord Justice Brett was enabled to point out to Mr. Vaughan Hawkins that Mr. Vaughan Hawkins knew more about affidavits than he did about sailors and the sea, a proposition which Mr. Vaughan Hawkins seemed disinclined either to affirm or deny, probably considering it irrelevant to his position as a junior who supplied law and not fact.

This stage being past, the time had arrived when, to maintain our record, either Mr. Rigby or Mr. Jeune must go, and the Lord Chancellor in due course took Mr. Jeune. Our clients presumably got tired of these shifting uses of counsel, and left me alone with Mr.

¹ This suggestion fascinated us all; and yet Sir Walter Scott, in his brilliant description of the "burning of the waters," says that at the end of the sport a liberal distribution of ale and whisky was made amongst the dependants, "besides what was called a kettle of fish—two or three salmon, namely, plunged into a cauldron and boiled for their supper." ("Guy Mannering," ch. 26.)

Rigby for the final struggle in the House of Lords. The case is reported in the Lords on the important proposition that the owner of a several fishery over part of the foreshore will be presumed as against the Crown to own that foreshore (*Attorney-General v. Emerson* (1891), A. C. 649). But the real fight raged round a great mass of controversial facts—Sir Richard Webster, the Attorney-General, spoke for twelve or thirteen of the seventeen days that the case went on. We, therefore, lasted longer than the famous case of *Attwood v. Small*, which took forty-two days to try before Lord Lyndhurst in the Exchequer, but only sixteen days to hear in the House of Lords. The Attorney-General in those days took private practice, and Sir Richard was overwhelmed with business. He was, therefore, supplied each day after the first two days (in which he merely sketched his case) with sufficient pabulum to last him until the House rose. This did well enough, but in the second week of his argument he began to tire of labours which were obviously distasteful. Thus, during the last twenty or twenty-five minutes of the afternoon he would be in difficulties. The Solicitor-General was generally away doing other Government business, Mr. Vaughan Hawkins never dreamt of prompting on questions of fact, and it was left for Mr. Danckwertz to fill the gaps. That remarkable man was never wanting in determination ; thus, from the back of the counsel's pen, in the quiet summer afternoons, he would launch upon the air a sentence which the Attorney-General would repeat like an echo and then endeavour to expand. On one particularly painful occasion, when everything was still except the two voices, and the light was 'flooding the stained glass windows, Lord Bramwell, who was sitting on the eastern side

of the House and lying back on his bench, suddenly looked up with the innocence of a child and addressing, say, Henry II. in the window opposite, ejaculated clearly and slowly, "Shoot that Danckwertz," and then looked as if he had said nothing at all.

Mr. Rigby put our case completely in rather over two days, and then told me he must go and I must continue the next morning. He sent me during the evening a long note of suggestions, adding that he thought we had won already. I have no doubt now that we had done so, but was glad to have a chance of speaking on matters which had been in my mind for years. It was a magnificent and inspiring tribunal to address—Lord Halsbury, Lord Herschell, Lord Bramwell, Lord Macnaghten, and Lord Hannen. They let me speak for a whole morning, and I had an easy consciousness that I was not abusing their patience, as they constantly asked me for help on questions of fact. However, about a quarter past one I thought it time to finish and make my bow; whereupon Lord Halsbury asked, "Is that all you wish to say?" and on my saying "Yes," went on, "The House is greatly indebted to you for your argument." I could have sunk through the floor.

The reply of the Attorney-General was a little lightened by a strange incident. Thinking that in so august a case the Attorney-General of England should not merely speak from other people's notes, Sir Richard had prepared a kind of peroration which included a quotation in the original Latin from the statute of Henry II., which defined the rights of the Crown "on the shores of the sea," in *oris maritimis*. This last word the Attorney-General declaimed as *maritimis*. "*Maritimis, maritimis*," murmured Lord Macnaghten,

who had been a senior classic. Lord Halsbury picked this up at once. "There is some question about the quantity, Mr. Attorney, is there not?" "My Lord, yes," said the Attorney, "there was once. But my friend Mr. Rigby gave that up in the Court of Appeal." This incomprehensible answer greatly perturbed Mr. Rigby, who, holding up his book before a face flushed with excitement, said to me, "What am I to do? What am I to do?" In the end he did nothing. The Lords said nothing. But the Attorney-General had his suspicions, and asked me for explanations in the robing room at the end of the day. I would not tell him, and he never knew why Lord Macnaghten's face was puckered with smiles on that final afternoon.

A calm and masterly judgment by Lord Herschell ended the matter, and then arose the real question, namely, what was the worth of these desolate wastes? In the end an arbitration before Mr. Gully, Q.C., the future Speaker, produced about enough money to pay off the first mortgagees.

The name of Lord Herschell recalls a case of mine with which he had a good deal to do, which had the rare fortune—or misfortune—to go twice to the House of Lords. This case was a commercial case from Liverpool, and on the face of it looked simple enough. It arose out of the formation of the Salt Union, and illustrates a saying of the great Sir George Jessel. This saying is generally quoted as "I may be wrong, but I never doubt." In fact he ended by adding, after a pause, "except upon the interpretation of a written contract." The Salt Union was one of the early "combines," as the hideous phrase went. It had a cast-iron form of purchase agreement and a great deal

of money. The nearer they got to a monopoly, the more important it was to secure the still outstanding properties, and thus our client had got two or three additions to the common form contract which were for his benefit. The problem being how to give him advantage without bestowing disadvantage upon other vendors, the clauses, necessarily drawn up hurriedly, were not all that could be wished, and, as frequently happens (according to Lord Justice Rigby), were probably left obscure by people who preferred to run the risk of what the clauses might be held to mean if litigation ever came about, rather than lose on the one hand very full prices for rather doubtful assets, or on the other ensure opposition from by no means negligible opponents. Ultimately, our client having done very well out of the deal, treated himself to a little gamble in litigation. If he won he might get a good deal, if he lost he had plenty of unexpected purchase money to play with. And so the litigation started. It was referred at once for trial to an Official Referee. My leader was Mr. Witt, Q.C., the leader on the other side successively, Mr. Joseph Walton, Q.C., and on his promotion Mr. Pickford, Q.C., and on his promotion Mr. Carver, Q.C., the author of the classic "Carriage by Sea." We all foresaw difficult and interesting discussions upon the measure of damages; but the Referee made short work of this by declaring on the first day that there was no breach of the contract and giving judgment for the defendants. The Divisional Court set this aside and directed a new trial. In the Court of Appeal one Judge agreed with the Official Referee, the others with the Divisional Court. In the House of Lords Lord Herschell, who presided, and thought apparently very badly of the morality of the

action, discovered an entirely new ground for saying that we had no cause of action. Counsel for the appellant gave way, and Sir Richard Webster, who had been brought in ahead of Mr. Witt, argued long without producing any effect. At lunch time, on the second day, he said he thought it was time for a change of bowling, and after the adjournment Mr. Witt began. He read the clauses slowly and clearly, and slowly and clearly went on to state what he contended they meant. He then stated Lord Herschell's position, enlarged it a little and finally read again the crucial clauses, and looking round the House said, with phlegmatic indifference, "Your Lordships cannot interpret those words to mean what is suggested from the Woolsack," and thereupon sat down. One of the Lords went and spoke to Lord Herschell, who called on the other side to reply. In a very short time we knew that Witt had succeeded. Lord Herschell's judgment was of the shortest, being to the effect that, much as they might wish it, they could not interpret the words otherwise than they had been interpreted by Mr. Witt. When the appeal had been dismissed Lord Herschell looked at our side and said, "If you ever come here on the question of damages, we shall remember you." This in a sinister and acid tone which greatly surprised us.

We returned to the Official Referee, who nailed his colours to the mast and gave us a farthing. The Divisional Court again ordered a new trial. In the Court of Appeal, Lord Esher and Lord Justice A. L. Smith got into strange heresies about political economy, saying either that reduced production would reduce prices or increased production increase them. Lord Justice Rigby, a mammoth of industry, produced a judgment which gave the plaintiff some £56,000 and

odd shillings and pence. But of course the Lord Justice had been a senior wrangler, and revelled in this unendurable case. When we went for the second time to the Lords, Mr. Moulton had taken the place of Sir Richard Webster. When we walked through the golden gates into the House, Lord Herschell was facing us on the Woolsack. As soon as the case was called, he said, "Mr. Moulton, I told your clients when they were last here that we should remember this case ; and we do." This with the same bitter emphasis as on the first occasion. He gave us, however, justice. He wiped away the political economy of the Court of Appeal in a sentence, and then taking the matter into his own hands, laid down canons of calculation which the Official Referee could not get away from, and we recovered in the end about £138 on the balance of everything, including costs. No litigation could have been more unedifying or more dreary than this. Every one knew the few material clauses by heart. They seemed to yield a new meaning in every Court they went to, and of their final meaning, as laid down by the House of Lords, all that can be said with certainty is that this meaning had never occurred to any of the parties concerned or their legal advisers, and would for ordinary purposes of business have been of no practical value. So Sir George Jessel was justified in his views of written agreements.

Mr. Witt, Q.C., who distinguished himself so much in this case, was very unlike the ordinary run of leaders. Like Mr. Justice Day, he was Dutch by descent. He claimed to be of the family of the Grand Pensioner, had a picture of that statesman over his mantelpiece, and bore a striking resemblance to him. He had been on the College at Eton, and at Cambridge was sixth

classic and fellow of King's. No one would have thought this from his talk and demeanour. His pose was that of a jovial and rather noisy man of the world, to whom life and not books were of interest. He took his summer vacation by driving through England with a pair of horses, his wife, and two portmanteaus. He would talk admirably about anything except law, which he eschewed. In fact he was a sound and judicious adviser, particularly on commercial law, and had the confidence of several great city firms. In Court he was most unequal. Sometimes (as in the case just referred to) he was brilliancy itself; on other occasions he would mismanage a simple case with strange obstinacy. He knew his own defects, and once said to me, "I envy that man"—pointing to a future Attorney-General—"more than any one at the Bar. He never does a case well, and he never does a case badly. He is a beta plus man." Somehow Witt was looked at askance by the authorities, and never got the Judgeship which he would have adorned. He certainly was very unconventional. One day he was citing some authority of about 1830 to the Court of Appeal. "Why do you trouble us with these old men?" said Lord Esher, in his impatient way. "*Vixere fortes ante Agamemnona*," said Witt, with his imperturbable phlegm, and went on reading. He was kind and considerate to his juniors, partly because his mind was always open to new impressions. He never got into a rut, perhaps never got so far as settled habits of work.

The next case of mine, which illustrates Lord Bowen's maxim as to variety in the barrister's life, was what was called at the time the Monte Carlo romance. This case concerned the will of a wealthy young man of about twenty-four years of age. He had gone to Monte Carlo

with a friend of his own age, and at his hotel had been attracted by the young lady who sold flowers in the hall, and was well thought of by all the visitors. One day he and his friend and the lady disappeared. They had travelled together through Italy, and some ten or twelve weeks after they left Monte Carlo he died at Naples. He had never married the lady, but had made a will under which he left her all his property. This will was contested by the family, for whom I appeared, my friend Mr. Priestley representing the heiress. We said that the young man had not sufficient testamentary capacity to make a will, and also—a sinister thing—that the will was obtained by the “undue influence” of the lady.¹

The first thing to do in our suit was to find out what had happened in Italy during the fateful weeks between the elopement and the death. A commission was issued to take evidence abroad, a pleasant commissioner was selected, and our occupation for the long vacation thus settled. We went to Genoa, Turin, Florence, Rome, Naples, Corsica, and lastly Monte Carlo. At these places the party had stayed, and the evidence at the various hotels had to be collected. The “testator,” as every one called him, had been addicted to drink, and some of the hotel bills gave cause for serious reflection. But the will had been made at Turin, and as we got nearer and nearer to that place, the testator’s wine bills

¹ All laymen and many lawyers suppose that “undue influence” means any sort of persuasion or cajolery which induces a man to consent to make a will which in his more sober senses he would not make. In fact, “undue influence” in the Probate Court means coercion. If the man with his last breath could say, “This is not my will, I have been compelled to put my name to it, but it is not my wish that its directions should be carried out,” then undue influence would have been established. To prove such a plea is almost an impossibility. The people who had forced the signature from the dying man would not be likely to have witnesses present who would give them away. A Probate Registrar once told a friend of mine that he had never personally known the plea proved.

became smaller. It was therefore not surprising that the Consul at Turin was able to say that he saw nothing unusual about the people who came one morning into his office and, with his assistance, provided by will that after the gentleman's death the lady should succeed to his property. The Consul at Turin had, of course, himself to think about, but it was probably true that at that time, at any rate, the testator was of sound disposing mind.

He had, however, been very strange before he reached Turin, and became still stranger afterwards. When he was in Corsica, before going to Turin, the Consul at Ajaccio was so struck by his behaviour that he wrote home about it. It seemed doubtful whether drinking would account for all his actions. At Naples, shortly before his death, he was still more eccentric. Among the witnesses whom we there examined was a Neapolitan doctor, a singular person who might have stepped out of one of Balzac's novels. "One morning," said he, speaking volubly strange English, which is here condensed, "One morning I was sitting in my surgery when the testator came in. 'Are you a doctor?'" "I am." "You must come at once. I have two carriages here, with my friend and a notary. We are going to fight a duel!" I went at once. Outside were two carriages. I got into one with the testator. We went first, and the notary and his friend followed in the second carriage. The testator produced his pistols, and put them on the seat opposite us. I was not afraid, not at all. Under my orders the driver went from one hotel to another, and at each hotel I got out and saw the landlord, and said, "Have you here any bowling alley or piece of grass on which we can fight a duel?" and all the landlords said, "No duel here. No duel

here.' So we drove about to all the hotels I knew. At last, between two and three o'clock, we drove down to the sea-shore, because the testator said, 'Either we have a duel on the sea-shore, or I shoot you dead.' So we drove to the sea-shore. Then the notary and I put them as far apart as the testator would allow us. Then they shot, and neither was hurt, and the testator fell on the neck of his friend, and we all went back to the lady. They kindly asked me to dine with them that evening, and I went with them to a music hall, where among the flags exhibited at the end of the performance was the Union Jack. When the testator saw this he was very angry, and threw all the chairs in the box into the pit, and assaulted the Mayor. So I went away." If the testator had gone to Naples before he had made his will, this evidence might have gone some way to show that he was in so unsettled and unbalanced a state of mind that he could not be said to be fit to make a will. But unfortunately for us the will was made before he got to Naples.

Going to Corsica, we crossed from Leghorn to Bastia on the filthiest of steamers. We stayed on deck all night, and were rewarded for our pains. The mountains on the eastern side are very noble, and in the first morning light were bathed in mystery. Such a scene might have met Odysseus when he sailed to see his friends in the shades.

At Bastia we had to wait till evening, and going into the Assize Courts, found three judges trying a prisoner who had killed three men in a vendetta, and then escaped into the "*maché*," the no-man's land beyond the immediate surroundings of the villages. One day this man had come down to a farm in the early morning for food, and whilst eating a raw chicken had been

captured. He was duly tried for each of the three murders, and in each case duly sentenced to death. The Court then proceeded to try him for stealing the chicken. The prisoner began to talk in an inexplicable lingo, but his gestures showed that he was pointing out that the proceedings were in his view superfluous. The President was nothing if not logical, overruled the protest, and heard the case out, finally pronouncing sentence of two months' imprisonment. So in the *Hunting of the Snark*: "Transportation for life - was the sentence it gave, and then to be fined forty pounds." The prisoner was taken away still obviously bewildered. I do not know in what order the sentences were executed. They can hardly have hung the man three times.

When our case came on for trial, Mr. Lawson Walters, Q.C., Mr. Deane, Q.C., and Mr. Priestley were for the lady; Mr. Inderwick, Q.C., Sir Frank Lockwood and I for some relatives; and the future Lord Loreburn led my fellow-bencher, Mr. Ricketts, for others. The trial was not only tragic, but at times dramatic. The lady was the first witness to appear before Mr. Justice Barnes and the special jury. She was quietly dressed, in black of course, but not obtrusive black. Her manner also was quiet, and her voice clear. She described how they left Monte Carlo and how the testator, who was a Roman Catholic, had promised to marry her on the crucifix which he carried about with him. She suddenly produced from beneath her cloak a case which she opened, revealing a crimson lining on which lay a beautiful silver crucifix. "It was on this he promised," said the lady, and the jury began to sit up and take notice to some purpose. She told her story during one afternoon, explained that the

testator's jealousy of his friend was unfounded, and dealt with the incident of the duel by saying that it had greatly alarmed her. The cross-examination was to commence on the following day, and at our consultation a delicate question arose. Who was to do it? Each leader expressed his complete confidence in the other two, and his willingness (no doubt genuine) to leave the matter in any other hands than his own. At last Mr. Inderwick undertook the task. He had been the leader in the Court for many years, and had an ease and *finesse* which neither of the others could pretend to. But his task was as delicate as a man could well be called on to undertake. He began at once on the next morning in the face of an antagonistic jury. His manner was considerate, his voice never ceased to be unimpassioned, and his questions seemed the simplest in the world. But at the end the jury were puzzled, and the case was not lost. We had a chance of getting our own evidence at least considered. Then Sir Robert Reid rose to ask a few questions. He had always spoken strongly about the morality of the whole case, and he took the worst possible view of the testator's behaviour. He was somewhat brusque with the lady, and at about his fourth question said something a little rough about the dead man, "Don't say that," said the lady earnestly. "I loved him, I loved him," and fell down heavily in a fainting fit. Good-bye to Mr. Inderwick's beautiful house of cards, and good-bye to any hopes of ours. Sir Robert seemed genuinely surprised, and sat down. The evidence of the friend who had travelled with them became an almost dull episode, for Sir Frank Lockwood, who cross-examined him, felt of course that extreme moderation was our only line after the events of the morning. Mr. Inderwick had completed the egg dance

without a mistake, while Sir Robert's shoes were covered with yolk.

When our turn came I read evidence taken on commission for a long time, when Sir Frank turned round and said, "Let Ricketts have a few overs," both Ricketts and Sir Robert Reid having played cricket for Oxford. So we were encouraged to tell Sir Frank an incident of the commission. At the station at Genoa the usual two gendarmes paraded the platform, with their swords. A member of our party, who had never before been out of England, got out and volubly explained to them in English that we had no such practices in England. He then took one of their swords and pressed it against the stone of the platform to see if it would break. Fortunately the official merely smiled at the English eccentricity, and no one was arrested. Lockwood at once took a piece of paper and produced with the front and back and feather of his quill pen a charming officer, who might have stepped out of Offenbach's opera, with a seedy suit one size too small for him, a large cocked hat and indifferent boots. With arms crossed over his chest, he seemed to be gliding down the stage to commence a *pas seul*. Inscribing the sketch, "*Il bobbino Italiano*," Lockwood handed it to me. The next morning, when he came in, he said, "I was looking through my portfolios last night, and have brought you one of the best heads I ever drew." The picture is of a very, very feeble young man offering a large cigar to a comfortable bald-headed party, who, with hands under his coat-tails, expresses by the three or four lines that make his face that smoking is to him an abomination and to young men a curse. The whole incident may perhaps show in its small way what Sir Frank Lockwood was to his juniors.



*H. Robbins
Italiano.*

Much of our own evidence suffered from not being given by word of mouth. The Neapolitan doctor, for instance, would have electrified the court. We had, however, evidence of the testator's condition before he went abroad, some of which was startling enough. A consulting physician from Harley Street said that the testator had consulted him, and that he thought then that the condition of his mind was unstable. Asked in cross-examination what opportunities he had of forming his opinion, he said very deliberately, "The testator came into my consulting room one morning about nine o'clock. He was with me ten minutes. I never saw him before, and I never saw him again. I shall never forget him as long as I live."

Mr. Justice Barnes summed the case up to the jury with that impartiality and skill which was then beginning to make him famous. The jury were out for three or four hours, and on returning said that they found that the will was a good one, and the lady entitled to the property. I have never doubted that that was the right verdict, but the Judge said it was clearly a case for investigation, and gave us our costs out of the estate. In fact, he was much more influenced by our evidence than we had expected, and this coming from a man who was a superb judge of the value of evidence was not the least interesting point in a case which never ceased to palpitate with interest.

Perhaps after this novel of real life I may insert a little incident which occurred to me regarding Thackeray, the novelist, whom my generation put at the head of his tribe. When I first belonged to the Garrick Club an old gentleman used to dine there, generally by himself, who had known the great man. Being told he was quite willing to talk about Thackeray, I took my

courage in my hands one evening and addressed him. He was precise and courteous, and was beginning to fail a little. "Yes," he said, "I shall be very pleased. What can I tell you about him?" "Well, what kind of a man was he?" "Oh! he was a strange man, very strange; and sometimes he had fits of temper, very violent fits. But there was a member here whom he was very much afraid of, Mr. Archedekne. Did you ever know Mr. Archedekne?" I disclaimed any such pre-natal acquaintance. "Well, Mr. Thackeray was afraid of him. We used to call him phoca, the seal, on account of his heavy moustaches. You remember the phoca in Sir Walter Scott's Antiquary. And so he became Harry Foker in the novel." This was nectar to me, and I asked why Thackeray was afraid of Archedekne. "Well! he was a strange man, too. I remember one night he and I and two or three others were having supper in the old house, and no one else was there, and Mr. Thackeray came in, and seemed in a bad temper; for when he saw us he scowled at us, and sat down in the far corner of the room. But Mr. Archedekne called the waiter and said: 'Waiter, bring a glass of sherry, and take it to Mr. Thackeray, literary gent., and charge it up to yours truly.' So Mr. Thackeray burst out laughing and joined us. But Mr. Archedekne was very unkind. Once, when Mr. Thackeray was making a great deal of money by lecturing, he came into supper on a Saturday night when the room was full. He thought they would all congratulate him, but no one said anything except Mr. Archedekne; and he said: 'No, Thack., my boy, won't do; want's a pïanner.' Mr. Thackeray was always afraid of him." And any one who will take down "Pendennis" from his shelves can still hear

Mr. Archedekne talking in Mr. Foker's adorable language.

My last illustration of the variety in work of which Lord Bowen spoke was the liquidation of a great firm of foreign bankers. The house was concerned with Spain and South America. It had been founded in London by a man said to have been a muleteer originally, who, when he died, left to his four sons a business worth £40,000 a year nett and £100,000 outside the business. These four sons, who are all now dead, dealt with the business in their own way. The eldest brother was impressed with the extent and variety of the business. They had correspondents and agents everywhere, and the letters sent out every day were numerous, very numerous. He felt that these letters should always be properly stamped, so that the correspondent should not be called on to pay excess postage. To this very desirable end he devoted a good deal of his time every day, and did very little else. Occasionally—no one knew why—he would go on the Exchange and buy bills on Spain, and then the papers would report that the rate of Spanish Exchange had “risen rapidly.” The second brother was the genius of the family. The business as left by the father was safety itself. If a corporation in South America, for instance, wanted water-works, the father would find the engineer and the contractors, carry out all the necessary arrangements on this side, possibly arrange some advances, and draw his commission. But his second son early in life had looked at foreign loans. The first of such loans which the house had brought out had been a brilliant success, and this son had continued this line of business in many cases where the issue had been far from satisfactory. His methods were unusual. He was

seldom in the City before three in the afternoon, and gave most of his appointments at five or six o'clock. About nine or ten he would leave the office, and getting some slight refreshment somewhere, would wander about the West End, always alone and presumably maturing his schemes. The result of all this was that the two younger brothers saw that they must really work hard, and one of them came every Monday, Wednesday and Friday, and the other every Tuesday, Thursday or Saturday. Thus if you began business with the one on Monday, and had not completed it on that day, you could either begin again with the other on Tuesday, or postpone your completion till Wednesday. In the hunting season you might even find that you had to wait till Friday.

Thus the second brother grew jealous of his juniors, and he greatly resented their interference with his own plans. On one occasion he was buying wheat on a great scale, with a view to some kind of corner. The price went on rising, and the younger brothers were most anxious to realise the considerable profit. Their elder said the prices were artificial, and he doubted if they could sell without breaking the market. Ultimately he consented to let them try. They sold and went on selling with considerable success, and finally, having relieved the situation, came back to their partner with some satisfaction. "Who have you sold to?" said he. They knew no one beyond the brokers, but a little enquiry showed that the buyer was their own partner. So that beyond paying two sets of commission to separate brokers, the house stood very much where it did.

They were all above their business, which was carried on by their head clerks and officials. The chief

cashier had been long with them, and drew £1,000 a year. On the ground that no one should be paid more than the cashier, they kept their right-hand men for years at salaries of £950 or £975 a year, while they carried out the enormous engagements of the House. No doubt they greatly underrated the value of these services, for they were reported to be strangely vain of their own powers.

A business conducted on these principles was bound sooner or later to come to grief ; and shortly after the firm had been turned into a company the crash came. The liquidation involved endless examinations of debtors, of officials, of directors, of any one who could throw any light on this strange imbroglio of tangled finance. The cellars were full of boxes crammed with certificates of preference or ordinary or post-ordinary shares of forgotten companies. The ledgers contained numerous accounts, on which the customer owed rather over £100,000 ; and it really began to look as if the firm, in their pride, let a customer run up to that figure and then cut him off and began to ascertain what he was worth. Advances against produce were a fruitful source of litigation at first ; but there was always something wrong in the charter-party or the bill of lading, or necessary evidence could not be got at. A monopoly of potato spirit exported from Sweden to Spain for illicit adulteration caused much searching of hearts, and much cautious investigation from Stockholm to Madrid.

Among the endless assets of problematical value there stood out in a class by itself a mine of iron ore near Bilbao. It had been the subject of a strange prospectus in which the firm, as an issuing house, guaranteed that so far as the mine failed to produce one million tons of iron ore, of a named value per ton, the

promoters would make up the difference to the company. Once, when playing golf with a partner in one of the great South American houses, I asked him if he had ever seen this prospectus, and if he could explain to me its meaning. His answer showed how the point of view of lawyers and business men may differ. "Oh!" said he, "I had long thought they were of doubtful credit, and when I saw that sentence I knew they must be insolvent." In other words, it made no difference to the firm what guarantees they gave, for they would be financially incapable of meeting any of them. The promotion must have failed, for the mine remained an asset of the company.

So at least the liquidator in his innocence supposed. But one day the news arrived that the mine was claimed by a namesake and relation of the person who had mortgaged it to the firm, and then submitted to foreclosure. Apart from the name the claimant appeared to have no claim. The liquidator treated him with contempt, and he commenced proceedings to recover property at that time worth about a million and a half English sovereigns. The case dragged on, and the claimant showed no signs of yielding. Finally he put the action down for trial, and thereupon the agents of the company in Madrid raised a delicate question, namely, when and how the Judge who was to try the case should be "approached." Investigations proved that the matter was unlikely to be tried on its merits. Accordingly, money went out, and in due course the liquidator went to Madrid to protect his interests. The case went on very well, and on a certain Thursday the Judge, apparently satisfied that there was nothing in the claim, announced that he would give his judgment on Saturday. That evening my friend, the

liquidator, was dining alone at the great café in the Puerta del Sol. when the head waiter brought him a large card bearing the name of the Chevalier dellas Rosas, Impresario of Comic Operas. This gentleman desired an interview, and quickly followed his card. He expressed his belief that the gentleman before him represented the defendants in the great action which was interesting the whole of Madrid. Learning that this was so, he asked how the action was going. Being told in a non-committal tone that judgment would be given on Saturday, he got up, bowed, and said, "He will begin to decide in your favour and will then be taken ill. Good-night." The Saturday arrived, and the Judge after stating many facts, was beginning to draw deductions, when he suddenly took out his handkerchief and held it before his face, saying, "I feel very ill, something has happened to me," and after slight attempts to resume his narrative, professed his inability to go on and adjourned the Court till the following Tuesday. That evening my friend was dining in the same café, and the Chevalier again appeared. The history of the morning was given, and the Chevalier pointed out that it agreed with his own prognostications. "He will decide against you on Tuesday," he added firmly. The liquidator was in great perplexity. However, continued the Chevalier cheerfully, "it is no use doing anything more now. The fact is you are in wrong hands altogether. I believe your agent communicated with him through his mistress." This was not denied, and the Chevalier went on. "For the last month he has been in the hands of the priests. The way to approach him is through his sister, who is a nun. That is what your opponents have done." The liquidator decided to wait upon events, and found on the following

Tuesday that the mysterious Chevalier had again guessed correctly, for the Judge decided that the mine belonged absolutely to the putative relation and not to the company. That evening the Chevalier was more self-assertive and very convincing. "Your agents do not understand these things." "But what should they have done?" "In the first place, why give money to the Judge of first instance at all? Only the decisions of the Court of Appeal are final." Investigation proved that the Knight of the Roses was correctly informed both as to the mistress and as to the nun. In the end the Chevalier undertook to deal with the Court of Appeal personally. If the decision of the Judge was reversed he was to have a certain figure, otherwise nothing. He wanted no payment on account, and what he did to earn the money was no concern of any one except himself. A question arose as to the sufficiency of the amount he specified. "It is quite sufficient," he said; "I am satisfied." "But there are three judges in the Court of Appeal." "Three: I do not understand." "Are there not three Judges in the Court of Appeal?" "Oh! I beg your pardon. Yes, of course. But you never 'approach' the Junior Judge. He can only dissent, and a majority is sufficient." In the final result, the appeal was allowed and the ownership of the mine confirmed to the company. The liquidator always said afterwards that when he attended to hear judgment he was at once satisfied from the faces of the Judges of two things, one that the appeal was allowed, the other that nothing had been done for the third Judge. This gentleman, gloomy and discontented, delivered a long dissenting judgment to an inattentive audience. The Chevalier carried out his contract to the last, and made no suggestion of any

increase in his fees. Unless he is still revelling in life, I think I am the only survivor of those who were acquainted with this strange history.

Among the many examined under the Companies Act in a dreary room at the top of the Law Courts, to ascertain what they could do in the way of reparation for the ill-advised confidence of these bankers, was a man for whom I felt a good deal. He had received for various enterprises, chiefly electrical, sums amounting to about £103,000 in all. He began by saying that we could examine all his books and make any enquiries of his bankers, but that we could by no possibility make more than £6,000 of his assets, all of which were at our disposal. I examined him for three or four days and managed to find about £500 more, which he had probably genuinely forgotten. He was a large, enthusiastic man, a born gambler, to whom his many patents and great ability ought to have brought one or more fortunes. He was obviously in great straits, and felt his position acutely. When we had finished the examination and he had signed it, he said with great earnestness, "I desire to say that this company has ruined me. A man of my disposition could not have resisted the temptation to borrow money, which I could get without enquiry for any scheme I thought promising." He seemed to find great relief in stating this view of his case, which may well have been the true view.

As we made our way out he came up to me and said, "May I speak to you alone, Mr. Ashton?" So we lingered behind and, again with great earnestness, he said: "This examination has been to me, Mr. Ashton, a terrible trial. I wish to thank you for the manner in which you have conducted the cross-examination.

You have got from me all that I have to tell. But you have not ridden rough-shod over me, and I am grateful." I said that barristers seldom got any gratitude, particularly from their opponents. "I can make you no return," he said. I replied that his speech was quite a sufficient return. "No," he went on, "No, I can make you no return." I feared he might be going to offer me a £5 note, when suddenly he fixed his large, bright, brown eyes upon me and murmured, "Are you married?" "Yes," I said, "happily married." Looking then over my shoulder, and speaking with great rapidity, "If at any time," he said, "you wish to go out of town, from Friday to Monday, with a lady who is not Mrs. Ashton, the Bull, at Barchester, may be recommended. Good afternoon." And so he vanished. I have never seen him again.

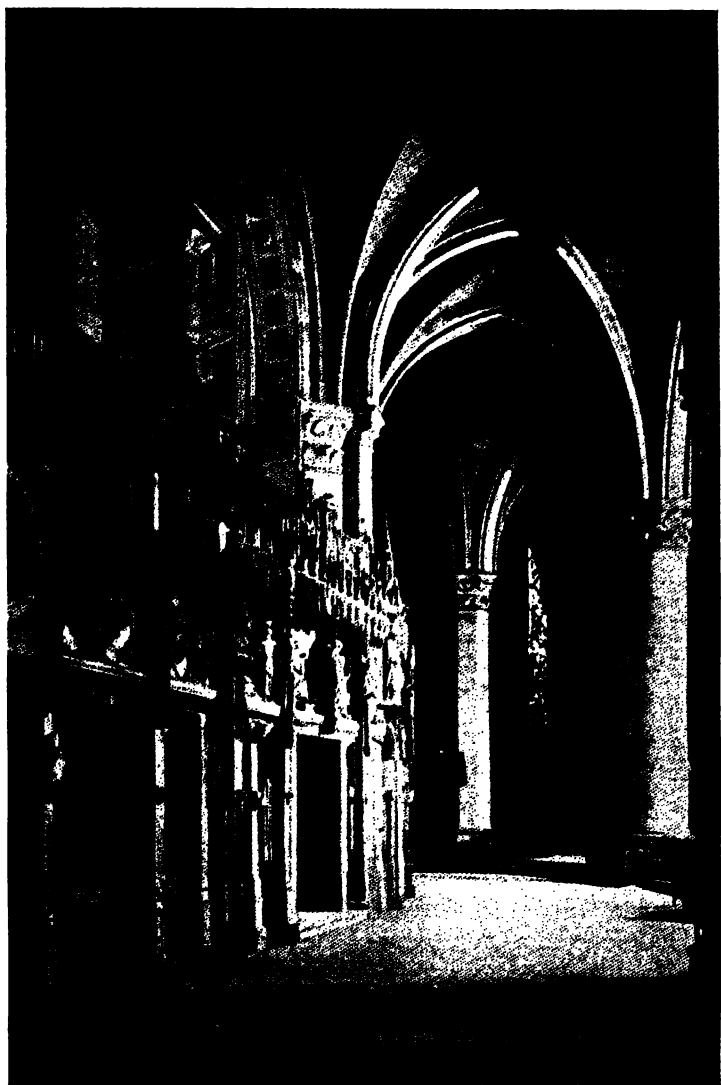
The cathedral at Barchester is undoubtedly a beautiful building. I have never seen it myself.

CHAPTER XIV

SCULPTURE AND ARCHITECTURE IN FRANCE

ONE Christmas I went with a friend, an art critic, to Paris, where he meant to collect materials for a series of articles on French sculpture. We had an introduction to the editor of *L'Art*. This gentleman, whom we found sumptuously installed in an enviable office, gave us about ten introductions to sculptors, from the President—if that was his title—to the latest discovery of *L'Art*, and incidentally of its editor. These introductions were varied with all a Frenchman's skill. We first called on the President—I think it was Dalou—whom we found installed in a large house, with servants. We went at a fixed time, and he received us in a frock coat and showed us some of his large work, in the conventional flamboyant manner. About the fourth of our visits was paid to Rodin, then rapidly coming to the front. There was nothing about him then which foreshadowed the venerable patriarch, with long beard, who in recent years has beamed respectably on the readers of art magazines. But he was, in his best mood, very grave and reflective, though often gambolling outside the world of conventions. Being then in the full flush of his artistic inspiration, he occupied two studios, in the second of which we found him. Nowhere, of course, is it more imperative to knock than at the door of a sculptor's studio. We went in perhaps a little too quickly, as our first sight was a young Italian girl scuttling as fast as she could

into a leathern sack, which she tied at her neck with great firmness. She then lay down by the fire, leaning on her elbows, with a face which seemed to be all eyes. Rodin told us she only spoke Italian, and then took us around. His talk was very different from the formal phrases of the President, who had left enthusiasm behind him for some years. Rodin first showed us the "Citizens of Calais," in plaster. His ambition had been always that it should stand where it in fact then stood, namely, in one of the squares of Calais. But the citizens of Calais seem to have been as obstinate with Rodin as with Edward III. They would not do what this unknown man wanted ; at any rate, if they did it, they would only do it on terms, and those terms had to be settled. Finally they agreed to pay for the casting in bronze, and the town of Calais got this masterpiece, while its maker got nothing. In fact, Rodin has been very unlucky with that work ; for he gave a replica to the British nation, and that nation first put the group on a pedestal so high that it cannot properly be seen, and subsequently set the pedestal with the Victoria Tower for a background. Any group of sculpture which was not dwarfed by the Victoria Tower would probably be American. As seen in the studio, the figure of the leader—*il tient la clé*, said Rodin—is most noble and impressive. Moreover, the expression in the faces is greatly varied. One man seems still certain that they should not have yielded. These little matters, which are vital, cannot attract attention twenty feet above the heads of the spectators. If these figures were on the level of the ground, or nearly so, thousands of people would be impressed and moved by the story they tell. At present the group is chiefly of interest to gulls and pigeons.



CHARTRES CATHEDRAL : THE AMBULATORY

Lévy

Rodin told us of another work, for which he had at any rate got some money. Some city in Burgundy wanted an equestrian statue of one of the Burgundian dukes, and gave the commission to a sculptor who belonged to one of their noble families, but was not otherwise specially—or indeed at all—fitted for the job. He felt that he could scrape through with the Duke, but the horse was frankly beyond him. He employed Rodin, then a young “ghost” among the studios, and paid him honest money for the horse which he, the putative creator, never touched. I was in the crowd, said Rodin gravely, when the statue was unveiled, and heard the speeches, in praise particularly of the horse, and the Count’s acknowledgement, which was “quite modest.” Rodin’s own name was never mentioned, nor was it ever put on the monument. He did not seem to see anything unusual in this, nor did he in any way complain. It was merely that the Count’s speech had amused.

He had some little clay models of the “Age of Bronze” in the studio, but did not refer to the famous controversy in which our friend, the editor of *L’Art*, had taken a triumphant part, in showing that Rodin had really modelled it. He had also in plaster the plan for the “Gates of Bronze,” which the Government had commissioned him to make some years before. Over this work he sighed deeply, saying he should never finish it. The gates, as all the world knows, were to contain panels, exhibiting scenes from the “Inferno” of Dante. He seemed to have finally settled two things only. The figure over the top of the gates he thought very fine, and said so. He had also been struck by the beauty of the passages both in Vergil and in Dante which tell of the babes left at the threshold

of the lower world. This thought had worked upon Rodin's imagination, and around the gates went a trellis of roses which, when looked at closely, turned into the faces of young children. Of this part of his achievement he could not doubt. As we left, the child leapt out of her bag, and was at once in pose, and as we went through the door he was measuring at the hip for comparison.

He was constantly walking round some one or other of the subjects on which he was at work, and said in explanation that to work "in the round" was incredibly difficult; at some point or other you were sure to find some fault. He detected two or three such faults while we were there. At that time he said—as I understood him—he was full of a theory of exaggerating in some way the bones and muscles of the body in his statue, so as to counteract the effect of the surface reflection of the marble. Perhaps I misrepresent him, but that does not matter. The point is that he had then some theory in his brain about his art; and indeed French artists seem constantly striving by thought to evolve some method which may help them to cope with their own special difficulties. In painting there is generally at least one new school which is making its way through the laughter of the last new school, either to permanence or to futility. This philosophy or generalising seems a necessary concomitant of an artist in France. But indeed all Frenchmen will give you a universal principle from three particulars.

Rodin invited us to *déjeuner* at the Lapérouse restaurant, and we there had an opportunity of seeing how even artistic Frenchmen can misbehave when *moules* are concerned. But we also had the advantage

of his talk over a beautiful and simple meal. He said that English sculptors were far better off than the French. "We have no *clientèle*," he said in effect, "except the State and the Rothschild family. In England sometimes mayors or lords wanted busts of themselves or their families. In France the *préfets* and *maires* will buy portraits, but not busts. Marble and bronze are more expensive than canvas." He belonged to a sculptor's club which had three rules : (1) They met once a week in winter at a certain hour ; (2) they met in turn at one another's studios ; (3) they drank water. "This," he added with a grave smile, "because I am afraid some of us can afford nothing else."

We were so delighted with Lapérouse that on our first free night we went there to dine by ourselves. The place was deserted, a few lights were burning downstairs, the charming room on the first floor where we had lunched was apparently closed, and when we left with an excuse they seemed delighted. In any case the idea was unfortunate, for the genius of the French cook is never both for *déjeuner* and for dinner.

The last sculptor on our list we sought far out of the way in Auteuil, and when finally run to earth he was living in a room over a stable with his young wife. This room had good light from the roof and was large enough to serve for studio, kitchen, dining-room and bedroom. This sculptor had a specialty. He was a sculptor of animals, and at the studio end of his cock-loft were many little models in clay of the greatest charm and elegance. He had one or two commissions under weigh, a memorial perhaps to some favourite hound, but it was obvious that they were very, very poor. The wife was just sufficiently in evidence while

we were admiring the poor little collection which disclosed her husband's power ; and after a short half-hour, when we had exhausted our inspection and praises, asked us to stay and break bread with them. My friend, with enviable tact, accepted at once. " But I must cook it," she said, " you had better all go out." The young man took us for half an hour's stroll. When we returned, she had ready a box of the real small sardines to eat with their rough bread; while she tossed us up an omelette, to be followed by a tiny haricot of mutton, which, as she said, had been meant for two, a cream cheese, and a cup of coffee made before our eyes. The table was by the fire, and she got up from it and returned to it as she cooked and shared the meal. Perhaps they divided fifty years between them ; and I doubt if they had fifty francs in the world. They probably did not eat meat every day, and the water we shared must have been their regular drink. But if the sun could have been asked who were the happiest people he was seeing just then in Paris, he would probably have chosen these two paupers living in their loft over the stable at Auteuil, alone with their bright dreams, their courageous ambition, and their love.

A dinner with the editor of *L'Art* at the Café de la Paix ended our visit. The fish, a huge turbot, covered with a purple sauce, surrounded with the scarlet coral, was distinguished as *à la Cardinal*. It was carried up the room amidst that soft *susurrus* from neighbouring tables which indicates that even the sight of such a dish is pleasing to the Parisian *gourmet*. It must be confessed that the purple sauce did not appeal to every one, and indeed it made one guest extremely ill. But the conception was worthy of the great restaurant.

From statuary to architecture is not a very far cry, and starting from Paris you can make a very pleasant little trip to some French cathedrals by going down one of the great western lines to Tours, and coming back by another great line through Chartres. Each of these places is reached in two or three hours, and from them you can attain other less known cathedrals. There are always plenty of them about.

If you make your trip in summer you should go down to Blois in the afternoon. There you should stop at the inn by the river, and eat your broiled fish and honeycomb on the gallery which looks into the water, and after dinner look at the broad and beautiful Loire in the evening lights, and reflect what a pleasant place France is when you have nothing to do. On the next morning you should go up to the castle and see the fireplace at which the Guise stood by the fire in the cold morning, and the archways through which he went to his assassination and the secret staircase, where Henry III. was waiting to come down and follow him into the room and say, in artistic decadence, over his corpse, "I had not thought he was so large a man." This is one of the few historical murders which can be followed on the spot. The double spiral staircase at this castle is so beautiful and mathematical that the critics are certain it was designed by Leonardo da Vinci; and undoubtedly his authentic sheets of pencil sketches seem half arms and legs and half cranes and Euclidian drawings. On this staircase you make the acquaintance of the salamander, the most entrancing of heraldic beasts. The delightful thing about Blois is that the flamboyant old brick palace is flanked by a classical annexe in pale stone. To enjoy this properly you should take there two well-selected architects, and

hear each of them curse the building in which the other delights.

In the afternoon you will drop into Tours in the right frame of mind and go, before the light fails, to the buttress of the cathedral, round which is built the house in which the Curé de Tours lived to adorn the best short story in the world. I cannot remember if there is a cathedral at Blois, but think there must be, because they have a Bishop's garden.

There is little to be said about Tours, except that it is now a good centre for motorists who wish to see the châteaux of the Loire. But has not the cathedral been somewhat undervalued? The west end looks enormously high from the outside, and the tops of its pinnacles have a shape of their own. The inside should be seen in the afternoon, because its chief glory is the west window. The west end, like the chancel at Beauvais, is all glass. Beneath the rose is a gallery of windows, and beneath that again other lights above the doors. The colour in these windows is largely yellow and ruby, and on a clear afternoon the western sun pours through them an amazing blaze of splendour. The effect intended seems achieved and is dazzling, without being garish. But there are more excellent things than these.

Lisieux is a charming little cathedral, standing well on a slight hill. I went there because the Bishop took part in the trial of Jeanne d'Arc, and added to the cathedral a Lady Chapel of beauty, to commemorate his remorse for what he had done with regard to the Maid. An inscription in the Lady Chapel itself reads as if his regret were genuine. He can hardly have been alive when the Court at Rome, many years later, set aside the judgment under which she had been

executed. Nor can he have lived in the Bishop's palace, a noble building in the best French style. But he may have planted some of the glorious trees in the garden, which on the day when I was there was thrown open to the public by some kindly successor.

Le Mans is a large commercial town, and very easily accessible. But very few people seem to have seen its cathedral. In Mr. Henry James's "Little Tour" there is an illustration which gives a good idea of its impressiveness, as seen from the town. The interior has a specialty of its own. The ambulatory goes all round the outside of the choir in great breadth, the chapels on the other side from the choir being rather small. The width of the walk at Le Mans is a beautiful thing.

Lisieux having got you a little off the line, you can make for Chartres by way of Evreux. But although the cathedral at Evreux may be poor, Chartres does not need any foil. All good English visitors to Paris go to Chartres. It is only two hours away, the hotel used to have bourgeois cooking of the best, and there are 120 windows of the most beautiful glass in the world; and although the church at Brou seems to have said the last word about tracery in stone, Chartres with her porches can talk to the enemy in the gate. We saw at Tours that the architect had taken away the west wall to flood the cathedral with evening light. At Chartres the problem is otherwise dealt with. The west end is a wall pierced by the *quatrefoils* of a wheel window, coloured in blues and purples and violets. Through these openings the evening light filters in the softest of lavenders and lilacs. Therefore you always go to Tours before you go to Chartres.

Take Beauvais on your way back to Paris. Beauvais

is near Amiens, and was its rival. When Amiens had built their cathedral so as to have the highest roof in Europe, Beauvais built their choir ten or twelve feet higher, just as the tower of Westminster Cathedral is ten or twelve feet higher than the tower of Westminster Abbey. It is always satisfactory to get twelve feet nearer to the infinite than your rivals. About A.D. 1500 flamboyant transepts were built up, I think by the Bishop who had so much to do with the burning of Jeanne d'Arc. They then went on in their pride to build a tower and spire of unexampled height at the intended junction of choir nave and transepts. This tower promptly fell down, the "Himmlische Mächter," whom Goethe finds so very inconsiderate, being doubtless jealous of so tall a tower of Babel.

The Bishop of Lisieux had built his Lady Chapel to express repentance. The Bishop of Beauvais did nothing in that way. Nor need he necessarily have had any compunction. He may have been an honest statesman of whose difficulties we know nothing ; but I think it very doubtful. The choir of Beauvais is like the inside of a lantern, the sides and apse revealing windows of extreme length, in which plain glass is beautifully relieved by austere red and blue figures. The strange person who proposed to construct an imaginary cathedral by combining the best features of the best cathedrals took his choir from Beauvais.

The trial of Jeanne d'Arc, and the final appeal to Rome many years afterwards, can be read in English. Saint Beuve, in his restrained and incomparable way, has pointed out the natural ease with which the peasant girl at the trial parried and foiled the questions of the inquisitors. On the appeal, the Constable of France, giving evidence, as an elderly man, spoke of her doings

in the field. He clearly gives the problem up. "It was particularly," he says, "in the managing of artillery that she was so excellent." He also says—and it was a beautiful thing for so great a man to say—"I often shared her tent in the field, and have seen her asleep stripped of her armour and lying in her shift. I never felt any carnal desire for her." Saint Beuve gives us a picture of a strong peasant lass, who could keep rough soldiers in order and in a good-humoured way swear "by her staff"; and indeed a delicate woman could not have worn even the light armour which she wore. Her whole history is comprised in little more than two years, and she was burned before she was twenty-one. At one point she recanted and then withdrew her recantation, and was brought again before the tribunal. On this occasion she would not disavow her "voices," and was finally asked why she had previously given them up. The answer makes your blood run cold: "Because I feared the fire." Thus even in so strong and young a girl the flesh for once was weak. But what of the spirit which, having once yielded, conquered the weakness, and finally faced the flames? "No coward soul is mine," said Emily Brontë, when within the penumbra of death. Jeanne d'Arc needed not to say anything.

CHAPTER XV

IN SILK

IN 1906 I took silk and went regularly on the Northern Circuit. As I have already said, I am the last man on the circuit who, when he took silk, to go circuit, had never been a local junior. I shall never have a successor. The Liverpool leading work goes to those who were formerly Liverpool locals, and Manchester follows the same practice. It is proper and right that solicitors should trust as leaders those whom they have known for years as juniors. But the process of decentralisation will go further, and in some shape or other the northern counties will get local and continuous sittings of High Court Judges.

The circuit system itself is for barristers sufficiently curious. To sleep in hotels instead of homes, to get up briefs without your own library, to dine in company every night, is a very heterodox way of living. A great Judge who as counsel went much on circuit, when it was a reality, said that you had there association without friendship; and indeed you may have less than that. There was a case of two leaders who sat by one another for years and spoke only to other people. But I think you can find friendship in a circuit mess; at any rate I have done so. Moreover, at mess the young men get to know their seniors. The system of "Grand Courts," which still subsists, has given many a man the chance of showing his companions, whether older or younger, what he can do in the way of impromptu

speech. Lord Collins, as Attorney-General of the circuit, displayed gifts of humour which would not have been suspected from his edition of Smith's Leading Cases. On one occasion he produced an imaginary "Ode to General Average," attributed to the future Lord Gorell, then known as Barnes. No one would suggest that Lord Gorell, a superlative Judge, was strikingly poetical, nor did the subject on the first blush lend itself to imaginative treatment. The ode, with Pindaric abruptness, began, "The risk's attached," and sent the ship away with a charming and accurate description of the warranty of seaworthiness. The ship went her round voyage, and got back to her home port, where a survey was held, and a doubt arose. The ode then quoted authorities. Lord Tenterden's book on shipping is the Bible on that subject. That great Chief Justice himself edited the first four editions ; at the fifth the future Mr. Justice Shee took the work over. Mr. Justice Blackburn, the great commercial lawyer, would never in his own books cite any edition of Abbott later than the fourth, saying always (perhaps pedantically), "I refer to the fourth edition, the last revised by its illustrious author." Mr. Justice Shee sat in the Queen's Bench with Mr. Justice Blackburn, who was said to despise his law. Therefore the ode amongst its authorities referred to Abbott on Shipping, fourth edition, and in these terms :

"Great fourth edition, last revised by thee,
Adored by Blackburn, undefiled by Shee."

Thus at Grand Courts the barristers of the Northern Circuit

"Mingle sobriety with wine
And honest mirth with thoughts divine,"

or may be said to do so on a latitudinarian principle of interpretation.

Two strong champions of the circuit system were the late Mr. Henry Shee and his great opponent, Mr. Pickford. Shee, a son of Mr. Justice Shee, was the best natural advocate on the circuit after Russell had left. Shortly after he took silk, Mr. Justice Henn Collins—who was very fond of him—presided in the Civil Court at Manchester, when Shee appeared first for the plaintiff in one case and then for the defendant in another ; and the same jury tried both cases. In summing up the second case, Collins said, “ You have had the advantage, gentleman, of hearing Mr. Shee to-day both for the plaintiff and for the defendant ; and you may perhaps wonder whether he is better in defence or attack.” The jury tumbled over one another to audibly assent to this fine compliment. The leader on the other side took the matter a little sourly, and not without cause. For starting from that chance opening, Shee soon distanced him and destroyed his practice.

Shee himself was an enigma. He showed his juniors great kindness, but was remote. Depreciating himself unduly, he cultivated a pose until it became a defect ; that is to say, whether in Court or out, he constantly asserted that he was no lawyer. He always dealt with his cases on the facts, and when compelled to submit propositions of law, would endeavour to pass the argument on to his junior. In reality he had a good sound knowledge of the Common Law, and complete mastery of the law of evidence. He seemed happiest at Carlisle or Lancaster, the district in which he first made his way at Quarter Sessions, at Licensing Appeals and in Criminal Law. He took more pains to keep out of London than other people took to get there. Mr.



BEAUVAIS CATHEDRAL: FROM THE SOUTH-EAST

Labouchere used to employ him in the libel actions brought against *Truth*, but instead of jumping at his chances, he seemed to wish that he had not got them. Of course, when he was tied to the post, he fought valiantly, avoiding questions to which he did not know the answer, and working with the minimum of material. This golden rule he said he had obtained from Sir John Holker, who would mutter, "Take half an admission, or a third, or even a quarter." Sir John once led Mr. Smyly, a future County Court Judge, when the other leader was asking irregular questions in the hope of strengthening a weak case. Smyly kept pressing Holker to object; Holker would not budge, and the answers did not come to very much. At last a question was asked which was probably admissible, and the answer to which might be most important. Holker slowly lifted his great bulk, and said to Mr. Justice Grove, "My Lord, my junior has been trying for some time to get me to object." "Well," said the Judge, who had been rolling about uneasily and sucking in his cheeks and blowing hard—for such were his ways in time of stress—"Well, Sir John, I have been wondering when you would intervene." "Well, my Lord, of course one does not want——" "But do you object, now?" "Well, my Lord, I do." "Then I overrule the question." And the other counsel, who did not know much, put up with it. This to Shee was a text on which to discourse. In one delicate case the letters were on the whole in his client's favour, but one in the very middle of the bundle was most seriously against him. He discussed it at consultation, and finally said, "I shall not read it; I don't think they dare put it in themselves." In Court he did not read this letter; and the other side, after much protesting,

did not read it. Nowadays the great commercial leader reads as many letters as he is allowed, while the great commercial Judge tears through the copy correspondence, turning down such letters as he thinks of importance. "You want pages 47, 69, and 132," says the Judge; "And 89 and 111," adds the counsel. "Very well," says the Judge, turning them down. "What do *you* say?" addressing the other side. If you have sufficiently able Judges and counsel, this is a wonderfully good way of conducting commercial trials, unless you happen to have forgotten page 9 and page 54. But it does not lend itself to triumphs such as Shee achieved in northern England.

Shee's love of animals was one of his many charms. He rode to hounds, and in his best portrait is seated on his favourite horse. At a consultation at St. George's Hall, in Liverpool, he was standing at the window and giving his usual discreet advice, when suddenly he threw up the window and began shouting to some one outside three or four stories down, and then made from the room. On his return he explained that he had seen a carter beating his horse, and went to put the matter right. In a horse case he once kept me back after the client and his witnesses had gone, only apparently to say, "How they stink of the stable."

Pickford was poles asunder from Henry Shee in almost all respects. They were both tall and strong, but if a compulsory beauty show of barristers had then been held, Pickford would have been near one end and Shee near the other. Shee was senior by some years, and when Pickford took silk, said one day, "That's the man I am afraid of." Undoubtedly Pickford achieved a circuit success unsurpassed in my recollection. For a longer time than would have seemed possible he was

in all the best work, both at Manchester and at Liverpool. In no part of his life was he happier than when he definitely led the Northern Circuit. He never seemed to be overworked ; the circuit dined at half-past six, and he did not leave before nine. He quietly drank his port and smoked his tobacco, as if briefs were vanity, and never, in his consulship, allowed smoking while port was being drunk. At nine he left, and would probably have read three or four briefs by midnight. He had a superb memory ; moreover, with him the facts seemed to fall naturally into their right places. He was at that time a good and well-trained lawyer, and argued points of law with confidence and interest, which used to trouble Shee when they were opposed. When appearing for the defendant, he had in his later years a practice of getting up at a very early period and stating what he intended his defence to be. It was difficult for other leaders to check this simple procedure, and thus the Judge (and perhaps the jury) got an early view of the matters upon which he would rely. He had no special gifts of language, and no particular sense of humour. He enjoyed other people's witticisms, and could repeat circuit anecdotes of other men, but did not himself say things that were afterwards repeated. On the many occasions when he spoke at circuit celebrations, he was always, whether as counsel or Judge, the one who was most insistently called for, and most rapturously received. Yet his speech, unless he had something particular to say, was always the same ; he wished they had not called on him when he was comfortable, he wished the new Judge success, and he yielded to no one in his devotion to the Northern Circuit. So with his advocacy in the Courts. It looked as if he were only stating a few plain facts which, if

interpreted by well-established principles of law, seemed to him, subject to the better opinion of the jury, to lead to the conclusion that the other side ought to fail. Such are the dangerous advocates ; if you are (and appear to be) all that an honest man should be, if you make no mistakes as you go along, and are blessed with a strong and determined character, you can see your way to many verdicts. Pickford had also to perfection the gift of making admissions which did not hurt him, and thus charming the jury by his air of sweet reasonableness. " It appears to me," said Mr. Justice Stephen once to counsel, " that, for the purposes of the day and subject to all just exceptions, you would be willing to admit that Daniel Lambert was a man of a somewhat full habit of body." Pickford's admissions were never meaningless, but they did not give him away. His estimate of the merits of a case seemed superb, and on occasion he could carry a settlement through with impeccable judgment.

When he finally got into the great London business and represented the Government in the trouble with the Russian ships and went to the Hague, it became obvious that all was up, and that we must lose him. As a Judge of first instance, his outstanding merit was his conduct of trials at *nisi prius*. He seemed incapable of unfairness, and, without hurrying people, he did not waste time. Of all descriptions the aptest would be that he was a just Judge, and this, I believe, would be the description he would himself have preferred. For with all his modesty—and he was almost strangely modest—he had a natural consciousness of his own gifts for his position. He could not but know that in law he was the son, not of the bondwoman, but of the free.

His kindness to the circuit continued to be universal. He never said pleasant things because he wished to be pleasant, and would tell you you were mistaken if he thought so. It was when you came to action that his power and sympathy were disclosed. Often before you could turn round the matter in hand was in train for a right and satisfactory conclusion. He could get his own way without disclosing how it was done ; and he did not put his money on the wrong horses.

In the Court of Appeal he was still the same man. He would state some facts, refer to the points made and the authorities cited, and then decide as much as was necessary. Like the great Lord Lindley, he always went on learning. Indeed he sometimes seemed to deserve that highest of all praise, which was given to Lord Cairns as a Judge and to Mr. Benjamin as a counsel; that when he had stated the facts, the legal consequences seemed to flow easily and certainly from those facts as thus stated.

As the leader of the Northern Circuit, he was a worthy successor of Lord Mersey—and no higher praise could be given him.

A leader in his first years in silk gets strange and unexpected cases. I remember a libel action brought by a medium against a spiritualist newspaper which had said she was an impostor. I appeared for the medium, who had this advantage, that the other side had to say that honest spiritualism was a true thing. She had received a good deal of money from a young workman whose dead mother was supposed to speak to him through the medium. A time then came when he wished to see his mother's spirit. For this purpose it was necessary that a "circle" should be formed. A "circle" consisted of at least twelve persons who sat

on chairs round a table covered with a tablecloth of proper stuff. When my client narrated these matters, fear came upon me, for the presiding judge was Mr. Justice A. T. Lawrence, afterwards Lord Trevethin. "Who was to pay for the twelve chairs and the table and the tablecloth?" said the judge. "Oh, the client pays for those," said the medium. "So in time you could furnish a whole house," said the Judge. I thought that all was over, but the Judge gave us a fair run, and the jury disagreed, one man holding out for the medium on the ground, as we subsequently learnt, that "spiritualism was not a matter to be trifled with."

This reminds me that an advertisement once took two young friends of mine to Brixton, spirit-hunting. They went to a comfortable house, at the back of which was a small theatre. They were shown into a library and received by a tall military-looking man. Upon payment of a guinea each, they were invited to name the spirit they required to see. Cardinal Newman was mentioned. A slight cloud passed over the face of the magician, who withdrew, and presently, through a pleasant parlour-maid, invited them into the theatre, which was small and dark. Some very faint footlights went up, and then the curtain, and there appeared, as far as might be from the lights, a figure dressed in what might have been a cassock or indeed a dressing-gown, and wearing what the lady called a "spectral" crucifix. This figure seemed to recall their host of the library, when, with head buried upon his breast, he raised his right hand, and in a voice—as Sergeant Wilkins would have said—which was a mixture of gin and catarrh, promulgated the words "Benedictine, my children," and withdrew. A few minutes later he reappeared and,

returning the guineas, begged that he might not be exposed.

Another case of mine further impressed upon me that the element of chance is great in litigation. My client had a weekly tenancy of an eating-house. Her landlord wished to get rid of her, and she said he had promised a lease of three years. Under the Statute this promise should have been in writing, and there was no writing.. She said that the contract had been "partly performed," and part performance may in some cases cure the lack of writing. She said the part performance was that she had continued in possession with her landlord's consent. As she would have done so in any case under her weekly tenancy, her case seemed hopeless. I stated my facts, and said that there was no writing, but that we were in possession, and then waited. Here the Judge cut in, saying, "Oh! possession would be sufficient to meet the Statute of Frauds. I suppose, Mr. J., you don't say it wouldn't. You say there was no verbal agreement." Mr. J. assented, and the Judge observed to the jury that a case ought always to be tried by getting at once to the real point. My client gave evidence of the agreement, and the defendant contradicted her. He got very angry with every one, including myself and the Judge. When the Judge summed up, he dwelt much on the fact that the plaintiff had spent £70 in furnishing the place. She was a widow, and he suggested that this sum might possibly be her whole savings. In fact she had borrowed the money from her brother with a view to running the place as a disorderly house. The jury gave her about £150; the defendant appealed, fell dead within a fortnight, owing to the excitement of the trial, and left behind him executors who declined to spend

his money on an appeal. I should mention that the Judge and counsel who were responsible for this verdict are both now dead.

Another strange litigant was the Tichborne claimant. The newspaper for which I appeared had said he was a "convicted felon." As he had served his sentence, this was inaccurate ; he had been, but was no longer a felon. So with luck he might have got anything from a farthing to £5. His counsel had been paid his brief fees, but seemed unwilling to go on. At last he called his man, and the difficulty was explained. "What is your name ?" "Roger Charles Doughty Tichborne," replied the claimant smoothly, thereby committing a new perjury. However, nobody seemed to mind, and the jury were greatly interested in the man. There was then nothing that was not ordinary about his appearance, and he might have been taken for a groom. But his voice was oily and his movements eel-like. His counsel asked something about the lady who figured so largely in the case, 'calling her Doherty. "Pardon," simpered the claimant with a writhe, "Doughty." The phrase "Pardon," and the way he slipped it out, proved conclusively that he had never been a gentleman.

Mr. Justice Day, who often came the circuit from choice, was a strong and a strange Judge. He was of Dutch descent, and his face in repose was wooden and melancholy. On one assize the jury were being sworn, when his clerk said, "My Lord, one of the gentlemen says the oath is not binding on his conscience." "Oh," said Day, who was a devout Catholic, "then let him affirm." "My Lord, he says an affirmation will not bind him either." "Oh ! then let him stand up." The man stood up, young, vain and voluble, and was

about to expound his views. "Yours," said Day, "is a difficult case. I must think about it. Would you mind going into the gallery in the meantime?" At two o'clock the man applied to be released. "The more I consider this point," said Day, "the more difficult I find it. Would you come again to-morrow at ten o'clock?" The man returned, and returned frequently. The matter got into the papers. People brought their friends to see him, and pointed him out as he sat alone. The jurymen would nudge one another when they returned after lunch, and saw him still there. The man gave up asking to be taken into account. When his panel had served their ten days, they were discharged by Day, who had never solved his problem. There was no more spirit left in the non-juror. He slipped down unnoticed by the Judge and disappeared,

"Left the warm Precincts of the cheerful Day
Nor cast one longing, ling'ring Look behind."

CHAPTER XVI

GERMANY AGAIN

AS time went on, my wife and I went abroad every three or four years, and were not infrequently in the Rhine provinces and in Bavaria, where she had friends whom she had known as a girl. One long vacation we were asked to visit two country houses in Bavaria, and took our chances with both hands.

The first house stood in a village near Fulda. The family was one of the few great Protestant families in Catholic Bavaria. Our hostess was the widow of a famous general in the Franco-Prussian War, who had given his name to a street in Munich, Von der Tann. His ancestors had lived in this little village of Tann for centuries. He had recently built a church, and there were perhaps a hundred houses in the place. The house itself was an institution. It stood like an enormous barracks above the village on a pleasant hill and facing west. It was built round a quadrangular court, the entrance being on the east side. Walking across the court, on the southern part of the western building, you found the home of our hostess. As widow of a former head of the family, she was entitled to the lodging which made the southern half of this western side; the northern half was occupied by her brother-in-law, who had succeeded her husband. On the north side of the quadrangle were doorways, each of which served two or more smaller apartments, in which

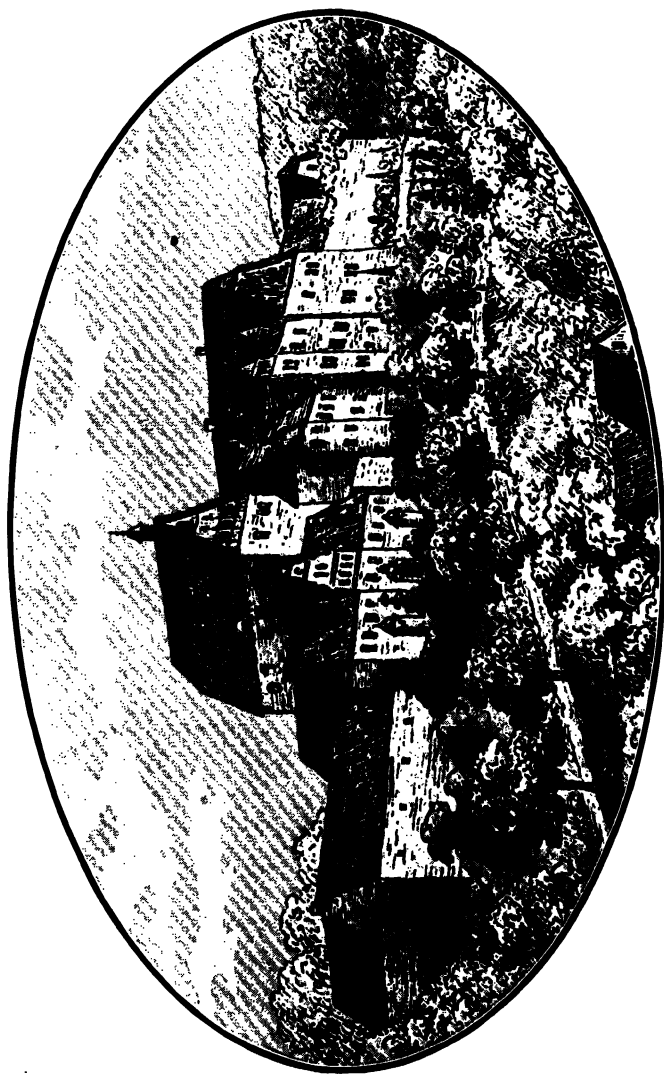
married members of the family lived. On the south side were small sets of rooms, to which maiden ladies or widows of the family succeeded on vacancies occurring. On the east side were remoter branches of the family who belonged to the small farmer class, and did not associate with their baronial neighbours.

The living rooms in our "apartment" were on the first floor, opening out of one another. The best bedroom was at the southern corner, and here we camped out. Its dimensions were about 60 feet long, 40 feet wide, and 35 feet high. In two of the corners were oases, in which were beds and wardrobes and carpets, and also chairs and writing tables. The rest of the room was quite bare. The floors were of great breadths of timber. The walls were whitewashed. In the living rooms there were tapestries, but all the walls were colour washed. The drawing-room was at the northern end, where the apartment of the other family began. Here by the windows there was a door, through which we went on the first night of our visit. We found ourselves in a sort of conservatory, half in our part of the building and half in the other part. As we entered, the other family came in on the other side, and all sat down to coffee by the conservatory window, which occupied the whole west front of the room. The room belonged to neither and both of the families, and twice a week they met there by custom in the room, coming in at a given time together so that no question of precedence could arise, and returning to their own apartment after an hour. Apparently the whole place was subject to what the Germans call a "stift," or *quasi-trust*. There was in existence somewhere an old code which regulated the distribution of the family funds and the occupation of the family barracks, and

there were trustees (who must belong to the family) who allotted rooms and dispensed funds, coming to the house from all over Germany to do it. On the fourth floor of this west side, and running the whole length of the houses, was the "gallery of ancestors," with many pictures not worse than may be seen in our own private galleries. The portrait of the ancestor who was Luther's friend was a striking work, and might have been a good likeness. Of Luther's letters to him the autographs were bound up in volumes. The library of books was also in this immense gallery, and was held in common by the occupants of this west front. Here, as in so many German houses, the room was shown which Luther occupied when he visited his friend.

The arms of this family were a Tannenbaum or fir tree on a plain field, I think *argent*. This seems a highly satisfactory coat,¹ but it is not so good as one which is in the hall of the Inner Temple. When a benchman becomes librarian (the office is immediately under the Treasurership), he puts up his arms in the hall. This has been done for 400 years, and the arms run three or four times round the hall, like the portraits of the Doges in the Great Hall of the Palace at Venice. About twenty years ago a prospective Treasurer, and a County Court Judge, declined to put

¹ Two of the strong bad Popes of the fifteenth century were Sixtus IV. and Julius II. These early nepotists belonged to the della Rovere family, and their arms are an oak tree on a plain shield. Rovere must be the Latin *robur*, oak, worn down by time; *Ihi robur et as triplex*, etc. The heraldic oak on the coat is delightful. From a tree trunk spring four tendrils symmetrically carved, each displaying three leaves and three acorns in a pattern slightly varied on each tendril. I do not know if we have any similar coat in English heraldry, but among our names we have Ashe, Beach, Birch, Pine and Vine, and Holyoake would seem, as it were, to kill two trees with one name. Sixtus IV. should not be very low in the Inferno, for he is responsible for the Sistine Chapel. Julius II.'s chief asset is his portrait (in the National Gallery) by Raffaello. He looks as strong as an old oak.



SCHLOSS BEICHLINGEN, IN THÜRINGEN, THE SEAT OF THE WERTHEN FAMILY

up his arms, for the very good reason that he had none. Nor would he go to the Heralds' College, or (as one Treasurer did) design them himself. However, his name was put in his niche, and in the result the shield was left blank in its original gilding. Thus this well-meaning man has unintentionally presented to himself a plain field, *or*. This shield might have graced the Chief of the Archangels in Milton's battle, but is too good for a County Court Judge. I suppose it would rank far above the 128 quarterings of the Emperor Maximilian upon the Innsbruck tomb.¹

Our life in Tann was simple and pastoral. Thirty yards below the house was a sweet stream, over which a bath-house had been built. Here we all bathed once or twice a day. The old gentleman and his son took me for long walks and arranged that we found ourselves at lunch time at one or other of his farm-houses, with a simple lunch and a bottle of his own wine awaiting us. There, after our meal, we sat outside and looked over the plains. For this country was undulating, and on every side great expanses of rich land could be seen, which is always a delightful sight. From Beeston, in Cheshire, on the right summer afternoon, you can see huge stretches of the Cheshire plain, and from the restaurant above Vienna you can see the Danube and

¹ Perhaps next to the coat of this worthy functionary should be ranked that of the Emperor Frederick II., "*stupor mundi*," a very different person. This coat reads, *or, on eagle sable*. In the great picture of the sea-battle at Siena the Emperor's troops have shields, bucklers and body-armour, all gold with the black eagle upon them, and the effect is dazzling. Much water had flowed under many bridges before, in the eighteenth century, the black and orange velvet of the Emperor's coachmen and outriders at the election of a King of the Romans made that picturesque spash of colour which fascinated the most brilliant pair of young eyes in Europe. Goethe did well to put those liveries into "*Dichtung und Wahrheit*." For, indeed, Lord Lascelles' yellow and black jacket needs beating, and the Brasenose Eight in black straw hats with yellow ribbon are the kings of the towpath at Oxford.

its territory for an immense distance.¹ The views my friends showed me were of this kind, and as the land was fertile and the forests large, everything was pleasing, especially with a long cool bottle of hock on your right hand and a well-intentioned German cigar in your left, and on each side of you a kindly and intelligent host.

The son was an officer in one of the crack cavalry regiments, where life seemed hard. He told me that in his mess the favourite author was Rudyard Kipling, whom they read in the original. He showed me the volumes which he himself possessed, and I subsequently sent him two more. I think "Soldiers Three" was the favourite reading of this intelligent and admirable young man.

Among the books in my room I found a large collection of caricatures and cartoons made by the general during the Franco-German War. They were generally heavy, and sometimes, of course, very gross. When I thanked my hostess for some of the other literature, she went straight to this collection, and said she believed it was very complete and very valuable, adding, with a demure smile, that she thought it might amuse me. This in a lady who was herself deeply religious, and the president of half a dozen charitable and reformatory societies, showed toleration and good sense.

The other house which we visited in Bavaria was a diplomatic house. The last head of the family had been the German Ambassador in Madrid. A time came when Bismarck desired to provide for his son-in-law. So this Bavarian was removed. Thereupon he resigned

¹ For picturesque purposes the American prairie is not deserving of serious consideration. It is much too flat.

further connection with the German Foreign Office, and retired to the house in which his family had lived from before the year A.D. 1000. Portions of the original house still existed, but the beautiful living-rooms dated from about 1600. We arrived in time for a two o'clock dinner. As it was our host's birthday, he was giving a large party to his neighbours. Among those to whom he introduced me was a short restless man with a big head, yellow hair, and large spectacles. "Baron Munchhausen," said my host. I said the name was familiar, and he explained that the book was based upon a study of the words and acts of his friend's great-grandfather. On hearing the great-grandson, I was convinced that there was a great deal of faithful observation in that excellent romance. Taking immediate charge of the whole conversation, and sweeping aside all competition, the little man plunged into a flood of narrative which carried all before it. He had only been working in the fields that morning, helping his men to get in the harvest. But this simple material was so embroidered with pictorial embellishments and picturesque inventions, that you were satisfied that his name must be Munchhausen. The guests, to the number of about thirty, knew their man and smiled considerably. I do not think he expected to be believed. When the ladies had gone, matters became more delicate. For it occurred to the orator that he should discourse to me on German politics, and this caused obvious uneasiness in the others. I suppose most of what he said was negligible, but one topic interested. He asked how many parties we had in our Parliament, and I replied "Three," as Parnellites still came to Westminster. "How many do you think we have in the Reichstag?" "Perhaps six or eight." "Sixteen,

and each party is divided into groups. The fact is, Mr. Ashton, that in politics if you get three men together in Germany, you will find at least two parties. And that is why we shall never lead the world." This was said about 1904, and has often come back to my recollection both during the war and since. I still can see the startled looks of annoyance upon the faces round the table. History seems to say that the brilliant little idiot hit the nail on the head.

In the drawing-rooms of this house, as you entered, the door, you looked down a long alley, with windows on one side, and on the other first four alcoves, and then the great drawing-room itself. In each alcove was a fireplace, so that you could come from the general company and play cards or write letters or make a proposal of marriage without disturbing others. The walls were all hung with painted Spanish leather, on which only Spanish pictures were allowed. I think they had a "Goya."

Our host, who was all that could be, kind and simple, explained two things about himself as if he were mentioning that the weather had improved since the morning. I had noticed that he was addressed as "Count," while his brothers were not so addressed. The reason for this distinction was that his was one of four German families in which primogeniture prevailed, and only the actual occupier of the estates and castle was called Graf. This was provided for by a "constitution" of the family. I also noticed that he wore a plain gold ring, with a cross in red enamel upon it. Seeing this, he explained that theirs was one of the few families in the Reich who thought they could prove that their ancestors had taken part in one or other of the Crusades.

Of course, there are only two real distinctions in England. One is to have "single" racing colours, and the other to hold a Nova Scotia baronetcy.

1. The Duke of Devonshire's jockeys, in pride of place, wear "straw" jacket and cap, and another owner has a beautiful single colour, "flame." Compared with this even blue and yellow, black and white halved, rose and primrose hoops are gauds.

2. A Nova Scotia baronet is now very rare. When James I. invented baronets, he put them into two orders, Nova Scotia baronets and Ulster baronets. But since the first creations all baronets have been created Ulster baronets, bearing the bloody hand. So a Nova Scotia baronet must go back to about 1610 for his title. There must be very few left. The uncle of the late Mr. Henry Shee, K.C., was a Nova Scotia baronet, and the title died with him. A Nova Scotia baronet once attended a levee, wearing his plain orange ribbon. A gentleman-in-waiting told him he should not wear foreign decorations there, and, being told that the ribbon imported a Nova Scotia baronetcy, coldly replied that there was no such order. Why should not some of the Labour Ministers be made Nova Scotia baronets? They would not be peers (which they would object to), but they would be above all other commoners.

A brother of my host was in the Diplomatic Service, and seemed to have been treated with about the same consideration as the father. He had gone first to Rio de Janeiro, and then been suddenly transferred in mid-winter to St. Petersburg. There he had been a success, and had come to London as second secretary, but with broken health. He struggled on with great courage, but ultimately went to die at a sanatorium on the banks

of the Rhine. While in London he used to dine at my house, and was very acceptable to my friends. I still keep a beautiful letter he sent to my little children when he was laid up in bed, and they had taken him some flowers. He was a man of magnificent build and noble character. Any English woman might have been proud to be his mother.

If the occupants of these two great houses and their friends had revealed the secrets of their hearts, they would, I believe, have disclosed two dominating principles, one a deep, strong, burning hatred of the Prussians and all their works, the other an intense desire that the peace of Europe should be secured by an alliance between England and Germany. They have gone under the wheels of Moloch with the rest. Never again shall I see those ancient houses or the honourable women and high-spirited men who, while all Germany was swelling with corruption and fraud, continued in their own simple course of plain living and high thinking.

No one would go to Berlin who could avoid it, so I have never been there. But Vienna is another story. I doubt if many people realise how far east Vienna is. It is further from England than St. Petersburg, twice as far from London as Madrid, and a thousand miles from Paris. At Buda Pesth, twelve hours after Vienna, you get definitely Oriental traits of life. On my first visit to Vienna I went from Germany, and by a route which then at any rate was very little known. Leaving Germany by way of Ratisbon and Passau, we boarded a steamer, and went down the Danube on the first day to Linz, and on the second to Vienna. Passau and Linz provided two intolerable inns ; but the steamer itself was quite good ; we lived on it with comfort, and

regretted not to have kept in its berths. The journey from Passau for some little distance below Linz is through the mountains, which gradually fade into hills, and ultimately end in the great Austrian plain which leads to Hungary. Among these mountains the Danube is strong and rapid and romantic. We made the passage at Whitsuntide. In winter it is quite impossible, and when we went down the stream was still a mighty current.¹ At many places there was little except the brown hurrying river in the gorge, and the course at many places became tortuous. The wheel was manned by six men, three on each side. The steamer would approach the black rocks of some mountain straight in front of it. Then the three men on one side would suddenly throw their whole weight on to their spokes, the three on the other side thrusting upward with all their strength, and the boat swung round rapidly at an angle skirting the rocks and making for the next danger ahead as though with pleasure. This went on with more or less severity for the whole day. The mountains themselves were black and desolate, but sometimes there were narrow strips of bright green valley, with brilliant flowers. How skilful the men really were I cannot judge ; but nothing could have been more exhilarating than such a voyage.

Vienna before the war was unique. The pulling down of the walls which made a ring about the old city, and the substitution of wide *boulevards* and public buildings for the fortifications, was as felicitous a thing as was ever done for a city. But the centre of the town was still full of narrow and crooked streets, and even round the cathedral there was little space. We were

¹ George Borrow describes this voyage in one of his letters. "Running like a mill flush" is his arresting phrase. See "Life of George Borrow," by C. K. Shorter, p. 109; a valuable book.

taken through the old palace and saw the very unostentatious chapel in which the dead Hapsburgs were buried and the living Hapsburgs sat at the window of a box on the first floor when they attended service. We marched through endless rooms which were packed up till the next court function should occur, and understood that wonderful story in Carlyle of the Englishman who had come from England to deliver some message to the then Holy Roman Emperor, and having been sent forward by a court official, had lost himself in empty passages and opened at random a door. In the room he saw a forlorn man, and asked if he could be directed to the Emperor's apartments, only to learn that the forlorn man was the Emperor in person.

Things were retrograde in that beautiful and indolent city. I was taken to the Law Courts, noble, new, roomy buildings, with Courts of full size and elegant appointments. In each Court there were three or five Judges sitting together. But there appeared to be hardly anybody else there. It transpired that all the work which I saw in process was conducted on affidavit evidence. I could not ascertain whether cross-examination was allowed. Prisoners, of course, are tried upon oral evidence, but in the five or six Courts which I visited the advocates were reading affidavits against one another. No wonder the Aulic Courts used to be ten years behind time.

Goldsmith, said Coleridge, did everything happily ; and that was what they did at Vienna. Their opera, heavily subsidised, was just what an opera should be, house not too large, orchestra not too noisy, a stock company with no overwhelming stars to spoil the perspective. On one night we heard Ambrose Thomas' "Mignon," and the Philina sang her Titania song so

brilliantly and so lightly that you thought the original Philina must have come from Vienna. On another night the "Rosen-Kavalier" of Strauss filled the bill. It had only been produced about ten nights before for the first time. I knew that Strauss recognised Mozart as the first of the masters of melody, and therefore expected reminiscence. But although the story was "Figaro" over again, the musical fancies were not, as I had feared they would be, fairies which had wandered out of Mozart's enchanted forest with a good deal of lead upon their feet. The "Rosen-Kavalier" is worth all the "Electras" and "Salomes" in the world. The lineal descendant of Cherubino was a woman, and wore page's clothes at which Covent Garden might have sniffed. But Vienna had made no mistake, and she flitted about the stage in her brilliant green silk and abundant lace with endless grace and a mastery of the music which made it appear almost natural. Towards the end both the voice and the body seemed to tire a little, and I asked my host about her. "She is one of our greatest artists," he said, "How old do you think she is?" And he handed me his glasses. I looked long at her, and saw lines of weariness upon the vivid face. "I thought," I said, "that she was twenty-five, but I suppose she is over thirty." "She is fifty-three," he said, "Her husband is one of the officials of the opera. They live in a flat close by. She often cooks their dinner for the middle of the day. You may see them any evening having supper at their particular café with their friends; and Vienna would not know what to do without her."

On another night we went to a music-hall, the Apollo, and were treated to a splendid and irreproachable programme. We were with the managing director,

who pointed out in the next box two ladies to whom he bowed. "That old woman," he said, "belongs to one of the best families in Austria. She has lost her husband, and is very poor. She wants to marry her daughter to me, but it won't come off ; at least I think not." All the people downstairs sat at little tables for four or six, covered with blue and red chess-board tablecloths, and ate their cold supper and drank their beer while the performance went on. At one point the resourceful director said to my wife, "This is the dullest turn, and you might like something to eat." We turned round, and at the back of the box was a long table and men-servants. Our meal was hot, and our wine was champagne. The door opened, and the Countess and her daughter joined us. I began in time to think that our host's resolutions were not adamant. I asked him on leaving to let me know when I could send my wedding present. But he never sent any address. The evening ended with a delightful and artistic ballet. It might have been danced to children, but people who can dance as they danced at the Apollo have no need to be "indelicate."

CHAPTER XVII

MORE SILK

I HAD not been very long in silk when the Home Secretary appointed me, under a Special Act of Parliament, to hold an inquiry concerning some religious riots in Liverpool. It was the first important public work entrusted to me. The Orangemen and the Nationalists lived in the same part of the town to some extent, and their antagonism—not only religious, but racial—was of course a matter of history in Liverpool. At this time there had been serious disturbances and street fights, and the police one Sunday afternoon had drawn their batons and broken up the crowd of rioters either in Juvenal Street or Great Homer Street.

In the result the Protestants had charged the police force with brutality and the Chief Constable with partiality, and had asked the Home Office for a public inquiry into these charges. Then followed the serious difficulty. The Catholics agreed to the inquiry upon having it extended, and the fateful extension was that the Commissioner should report which party, in his opinion, was to blame for the disturbances. Being appointed Commissioner, with all the powers of a High Court Judge, I went down to Liverpool and sat for four weeks continuously. At the end of that time every one who wanted to say anything must have said it; and I do not think there was an hour in those sittings in which I was not both busy and anxious. But at no time did I wish that I was not there, so vivid

and so actual were the facts, the prejudices and the passions which were revealed to me.

We first investigated the attack upon the police and upon the integrity of the Chief Constable. This part of the case was at first somewhat thorny. The Chief Constable had been at a public school and in the army; and his critics could not readily understand that a public official should resent with indignation any suggestion against his honour. Such charges were made against and by themselves every day of the week without any particular emotion being excited. It was all in the day's work, and they could give "as good as they got." Nor did the Catholics take any very violent interest in defending a public official; what they wanted was to get at their opponents, and of course whatever blocked their way must be brushed aside. But if the way was cleared, they were lukewarm about the sweeping. In time it dawned upon the Protestants that it might not assist them much in the subsequent and vital struggle if they seemed too vindictive against a man who, after all, was not a Roman Catholic. With regard to some of his men, there was, of course, a case to be investigated. Force is force, and streets cannot be cleared without heads being broken. But the Chief Constable had broken no heads. Thus at the end of about ten days the Protestants—somewhat to my surprise—withdrawed all the charges against the Chief Constable, and we got to business.

This diplomatic withdrawal must have been engineered by one man, the Protestant protagonist, Pastor George Wise. This remarkable person had for some time been conducting a bitter and capable campaign against the Catholics. He had a large chapel of his own, a body-guard who protected him wherever he

went, and a congregation of enthusiastic and determined supporters. Attached to his chapel was a library of some proportions containing books upon the Catholic question, and he purported to deal with these matters not only as a man, but as a scholar. His supporters believed that he had perused St. Augustine, St. Jerome, St. Thomas, and Ignatius Loyola, and had found them all wanting. Nor could it be doubted by any one who heard him at length that his natural gifts were considerable, his interest in theology unaffected, and his hatred of Catholicism in some respects sincere. He came early into the witness box, and was there for several days. Some twenty or thirty books were at first ranged before him on the ledge of the witness box. Of these I took no notice, because he evidently expected that I should ask what they were and why they were there. He watched me with the eyes of a lynx, and if I had betrayed in any way that I was unfavourable to his party—which in fact I was not—he was a man who would have withdrawn from the inquiry at once, and said it was impossible to conduct it before such an unfair tribunal ; and this he could have carried through successfully. Early in his examination it was disclosed that in the football edition of a Saturday evening paper an advertisement had appeared to the following effect : “ St. Thomas says that all heretics should be burned. Attend Pastor Wise’s open-air meeting at five o’clock this afternoon.” The meeting was to be held in some open place close to one of the popular football grounds. I asked the witness if St. Thomas really said this. “ Yes, we have his works in our library.” “ Do your working men read them ? ” “ Yes, but not in Latin. There is a translation on the opposite page.” “ Could you bring the book ? ” “ Certainly.” On the next day

he produced the book, and made a handsome apology, saying he ought to have been more careful. I asked for the book and read to myself the Latin words, "*Omnes hæretici comburantur.*" The translation said, "All heretics *may*," not must, "be burnt," a very different proposition. From this I knew that Paſtor Wise did not know Latin ; and it was clear from his manner that he did not know, but was very anxious to know, whether I knew that he did not know Latin. However, he never looked away from my face during this episode, and agreed that Dr. Routh, of Magdalen, was right when he advised young Mr. Burgon always to verify his quotations. Later in the day he took a brilliant and sound distinction, in answer to the Roman Catholic advocate, and I said, " You remind me, Mr. Wise, of St. Thomas' angels." He did not take the allusion. " Surely you recollect the chapter where he discusses how many angels can stand on the point of a needle." He had not read that chapter. " Well," said I, " you seem to me as subtle as St. Thomas himself." He did not quite know how to take this. Pursuing the topic, I said, " I forget, Mr. Wise, where Dante puts St. Thomas in the Paradiso. I think it is very high. Do you remember ? " Mr. Wise, a little sick of St. Thomas, rejoined tartly, " I think he should have put him in the Inferno." I have often thought about this retort. Mr. Wise must have read somewhere something about Dante which he had remembered ; but Dante was hardly Mr. Wise's man.¹

Shortly afterwards he was complaining of some " acolytes " ; so I said, " Perhaps your congregation

¹ I have read that in the Paradiso white and gold are the only colours mentioned. It has sometimes seemed to my fancy that the two colours of the Inferno are black and red, and the two colours of the Purgatorio purple and green.

do not understand what you and I know, that acolyte is merely the Greek word ἀκόλουθος, meaning an assistant or attendant." He neither admitted nor denied that he had this knowledge ; so I then was satisfied that he could read neither Latin nor Greek. The next day none of his books appeared upon the ledge. I am now free to confess that my statements about St. Thomas exhausted my knowledge of that Father. But it got about that I was familiar with his writings, and those of other theologians. This was not and is not true. After this Mr. Wise and I got on very well. But he never for a moment forgot his cause, and fought his corner with determination and great ability. One afternoon the sun fell upon him at an angle, and I recognised the type of head and feature. This was no hot-headed Tory from Ulster, no recaller of the battle of the Boyne. If physiognomy said anything, he belonged to that race whose members, when good, are very good, and when bad are very bad, and when middling are very middling. During the inquiry I avoided all questions, but learnt afterwards that he was supposed by origin to be a German Jew of the name of Weiss. There is a good deal of evidence to show that at least one of the Grand Inquisitors in Spain was of Jewish origin ; nor is it surprising that Jews should attack by any means the Christianity to which they owe centuries of perhaps unparalleled persecution.

There was a spot in this neighbourhood where St. Patrick had done something. Of course this nook was on private ground adjoining to, and not separated from, the highway. Of course on the appropriate day there appeared on this spot what to Protestant eyes looked extremely like an altar decorated for a festival, and of course it was not an altar because it did not contain

within it the altar stone which is the subject of an elaborate ceremony of consecration, and is essential to an altar. That Catholic women should kneel in front of this shrine was natural, and that their feet should happen to protrude on to the pavement might well happen. And it might well happen that Protestant passers-by should by mere chance trip over these feet and complain of the highway being obstructed.

In this connection one witness was memorable, not merely for her name, Mrs. Achilles to wit. The husband of this lady was an Italian who worked as a statuary mason in Liverpool. Mrs. Achilles herself was pure Lancashire. She sat in the witness box with her Lancashire shawl around her shoulders and a man's cap upon her head, and faced the world four-square, being firm and unfearing, though kindly. She was of the Protestant persuasion, which was equivalent to saying that she thought all Irishwomen were slatterns, and did not wash their children sufficiently. She had described a neighbour whom she saw on her knees at this "shrine." Being cross-examined, she was too shrewd to object to the woman merely because she was a neighbour. "Did she object to the woman saying her prayers?" "No, but it didn't seem quite seemly." "Why not?" "Well, perhaps it was better done at home." "But might it not be done in the street?" "It might, but she wouldn't do it herself." "But other people might." "That had nothing to do with her." "But really, Mrs. Achilles, do you say there is any harm in a woman going down on her knees to say her prayers in the street if she wishes to?" "Well, I don't think myself it is a proper thing to do—especially if you're drunk." Thus Mrs. Achilles, looking innocently in front of her, but not unconscious that she had

reserved her fire to some purpose. In the end, having kept the inquiry together, I decided in favour of the Catholics. I could not get the parties to agree that no report should be made. The action of Pastor Wise had been too drastic, his insults had been too venomous, and his followers had been too unwise for the Catholics to throw away their winning cards. Subsequently the leaders on both sides considered the matters which my report had dealt with, under the Presidency of the then Lord Derby, who at the time was Lord Mayor of Liverpool. They arranged a truce, which has continued from that time without any break to the present day.

Oddly enough, two or three years ago I prosecuted the Sinn Fein rioters at Liverpool under the temporary ægis of the Attorney-General. We tried them for a fortnight or three weeks, and got some convictions. On the same circuit other Sinn Feiners were prosecuted at Manchester. Much to my astonishment, I was asked if I would defend a batch of these prisoners, about twelve in number. I took the defence, as I was entitled, and, indeed, bound to do. They were charged with treason-felony, and with levying war against the King. One day a curious incident occurred. At eleven o'clock in the morning the Sinn Feiners were holding a minute's silence in commemoration of something or some one. Precisely at the hour, one of the prisoners said, "Tention," and they all stood to attention in the dock. For people who were saying they were not guilty of being in arms against the Crown it seemed odd, for they had evidently been well drilled for a long time. But how did they manage to communicate with one another before coming into Court? Practically all were convicted, and I suppose are all now released. When I defended them, I had been at the Bar over

forty years, and had never previously defended any prisoner.

My prolonged inexperience can hardly be responsible for their conviction, for they all said in the box that they were members of the Irish Republican Army. My batch were nice-looking, well-behaved, irresponsible young men, who sent me a letter of thanks, which in three sentences said everything that a counsel could desire in language which Burke himself might have envied. They were of the rank and file ; but with them was tried a man who had had under his charge in a stable in Manchester sufficient gelignite to destroy all London. He gave evidence, and was only anxious to prove that he had nothing to do with the childish persons who thought that by drilling with rifles they were advancing the cause of Irish independence.

Most of the time of most leaders is occupied with unreportable cases extremely interesting to the parties concerned, and absolutely uninteresting to the world at large. To turn such events into the materials for biography is frankly impossible. Many distinguished lawyers, no doubt, have tried to put life into such dead clay, and with one accord have failed egregiously. Who wants to know that a man for thirty-nine days investigated the details of the building of a lunatic asylum, when a contractor wanted £30,000 more than a county council was willing to pay ? Who wants to be told that if you go through the specification for building a ship, you can in the course of a few weeks cut something off the cost of crank-shafts of patent valves and even of painting in the captain's cabin ? Such investigations increase a leader's balance at his bank, reduce his intellect to dulness, and tend to cramp his style. Incidentally the strain of such cases upon the memory

is distressing. Lord Bowen once told me that the Tichborne case nearly killed him by reason of the endless uninteresting detail.

I have prosecuted and cross-examined several persons on their trial for murder. This cross-examination of a prisoner charged with murder was at first very much limited by the leaders, who had been brought up under the system which did not allow a prisoner to give evidence. Henry Shee, on one occasion, asked a few questions, and then said, "My Lord, I am not accustomed to this class of work ; I cannot go on." And he sat down. The modern method was inevitable, and may be necessary, but it puts upon the shoulders of the advocate a most unpleasing burden.

I once prosecuted at Carlisle a man who was charged with murdering his father, and have always remembered one detail of a long and enthralling trial. The father and son worked together alone in a tannery which belonged to the father. One Saturday the son left the tannery about one o'clock ; in ordinary course, the father would leave about 1.30 p.m. to catch his regular train at 1.45 p.m. At nine o'clock that night the policeman on his rounds tried the door of the tannery, found it unlocked and went in. On the floor he found the father dead, with his head battered in. At the Police Court, a woman who saw the son come out had said that he shut the door and locked it. There was some evidence given by a man who had passed the tannery in the evening that he had seen the son near it about seven o'clock, but this identification was uncertain. If the son in fact locked up the tannery and came back in the evening and unlocked the door, which he had locked, things looked very black, and the theory of the prosecution was that he had done this.

When I read the woman's proof, I found that she proposed to say at the trial merely that the prisoner shut the door. This, of course, gave room for suggesting that other people might have gone in while the father was still there. I called attention to the discrepancy, and was told that the proof contained all she meant to say. I at once told the solicitor that nothing more was to be said to her on this topic. I examined her myself at the trial. The court was crowded, and during her evidence the silence was profound. She said she knew the prisoner well, that on Saturday morning she was at her door opposite the tannery, that she saw the prisoner come out about one o'clock. "He closed the door," she said, and then paused. As I recollect, she then looked first at me, then at the prisoner, then at the Judge, and then at me again, and finally sighed and added in a whisper, "Nothing more." It would seem that she was right. It is a strong thing to say—when a man's life may depend upon it—that you are certain that you remember a door being not only shut, but locked. A day or two later the jury acquitted the prisoner, as I think rightly. But what would have happened if the woman at the trial had said, "He closed the door—and locked it."

CHAPTER XVIII

SOME REFLECTIONS AND ONE, OR TWO MORALS

I HAVE been Recorder of Manchester for ten years, and have also on several occasions gone on circuit as a Commissioner of Assize. So perhaps I may venture to claim to have seen the administration of justice from both sides of the table. When I look back to the time when I was called, the changes which have been introduced seem far-reaching. A little here and a little there may not seem very much at the time, but in bulk the alterations are great. In my view the improvements have been immense.

In the Criminal Law the most astonishing change is in the length of sentences. With regard to most serious crimes, this change has come to stay. Except in cases of killing, it is now a rare thing for a prisoner to receive the sentence of penal servitude for life ; and even seven years' sentence is quite uncommon. It was different forty years ago. I heard a man sentenced to penal servitude for life who had outraged his own daughter. No doubt in the present day he would be very severely punished, but at that time no one considered any other sentence possible.

But the real change has taken place with regard to medium and minor sentences. Take, for instance, Post Office offences. A man has been stealing letters to get money out of them. A decoy letter is sent, and he is detected. It used to be thought necessary in the interests of the service to give sentences of twelve or

eighteen months, or even penal servitude. The other day a postman who had broken his trust was bound over to come up for judgment if called upon. This passed unnoticed ; in 1880 it would have produced an article in *The Times*.

Again, magistrates can now deal summarily with many cases which formerly went to Assizes or Sessions. Prisoners can by consent considerably extend these powers, and in the result receive the moderate maximum sentences which magistrates can inflict, and incidentally save the time they might spend in prison waiting for their trial at Assizes or Sessions.

The practice of binding prisoners over to come up for judgment if called upon has grown during recent years. I think it a valuable provision in the case of young offenders. The real chance for the reformer of prisoners is to be found among these boys and girls. At the present day to become a regular criminal a boy must do much. At first he or his parents will be bound over, then he will get sent to an industrial home. Then he will be sent to Borstal for two or three years, then he may get bound over again. Finally, he will get his first sentence. I never impose this first sentence without reflecting that I have probably made a new criminal. But the number of young people who tire of crime before they get to this stage is large. The statistics of the Borstal institutes give high percentages of Borstalites who have not returned to crime, and even after liberal discounting for untraced persons, the results justify the system. It is no use saying that institutes and reformatory schools are the result of enthusiasm, or are carried on with stupidity ; assume both these positions, and the result remains that if you take a boy from criminal surroundings and teach him some sort

of trade, he is less likely to steal than he otherwise would have been. Nine-tenths of juvenile crime is picking and stealing, and a boy who has had no chance of stealing for three years and has not been too comfortable during that time may not care to steal again.

But let it be assumed that such a boy steals again. He goes before a magistrate, who commits him for trial, and he comes up for trial before a Chairman of Quarter Sessions who knows his business, or even before a Recorder. He is bound over to come up for judgment if called upon during the next twelve months. It is explained to him that if he behaves properly during that time he will hear no more of the matter, but that if he commits another offence he will be brought back and severely sentenced. Personally I generally say what the sentence will be. I only recollect one case during ten years in which the boy or young man came back within the twelve months. No one concerned with the administration of criminal law should look for more than poor results. But everything depends on what you mean by poor results. The material upon which you work is poor enough, and if you make some two plus men out of many four minus boys, you have gone a long way towards doing well. In my experience the Borstal system does something to teach boys and girls that they can be dominated. I have tried girls whose parents could or would not keep them in order, and who defied everybody. At a Borstal institute they learn at any rate that they can be physically controlled. However, I remember a girl whom I had tried and sent to Borstal, and who had come out on licence towards the end of her time. She had stolen again, and had come before me again. In the dock she was demure and repentant, sent me a very proper letter of regret,

and asked for another chance. I sent her back to Borstal for a further two years in a sentence of three words. She burst into a paroxysm of fury and, being a strong girl, fought in the dock with the female warder and two police sergeants. She was one of the rare exceptions to the general rule.

The Manchester children of the gutter are great friends of mine, especially the boys. Whether they come into the dock or into the witness box, they are often bright, often pathetic, and always attractive, at any rate to me. I remember two boys who had just left school, who one night were in a back street at closing time. Football with a rag ball was over, and they were seeing life. They watched one public-house out of which came a blind man who interested them, followed by two persons who interested them still more; for within twenty yards of the public-house this couple had picked the blind man's pocket, or rather his wallet, of all its contents. The two boys thereupon followed the thieves who, to their rapture, broke into a lock-up shop a hundred yards down a deserted street. For this crime the two were charged before me, and the boys were the material witnesses. The leading boy described how they followed the men at a proper distance and saw them break in and come out and make away. "I noticed the coat of one of them was bulging," said this young Sherlock Holmes, drawing, I fear, on his imagination. In fact the thieves had stumbled on a stuffed bird shop, and only secured a musty parrot. They were ultimately "taken" and charged with stealing this stuffed bird; this offended their dignity, as they were expert thieves. In cross-examination the boy said they had followed the men up until they were arrested. He was then asked why, having seen two



"OW! MR. COPPER, DON'T TIKE ME,
I'VE A WIFE AND FAMERLEE."
"OW MANY CHILDREN 'AVE YER GOT?"
"FIVE-AND-TWENTY MIKE THE LOT!"

Specially drawn by G. L. Stampa

robberies, he had not gone and fetched the police. On this my young friend looked first at the counsel and then at me, and said with earnest simplicity, "But if I had done that, I should have lost sight of my man. I sent my young brother for the police." The second boy was quieter, but a shrewd observer; and between them they secured the convictions of two men who were much wanted. Neither of them had been able to get work when they left school, but after this kind friends of mine were good enough to help them, and they are doing well, especially one who in a letter had told me he would like to be an engineer, "because I draw so well."

There are two laws of the gutter: (1) If you pinch anything, you must get away with the stuff; (2) if you see another person pinching, you must never lose sight of your man. It is not to be expected that a strong sense of the sanctity of Mr. Wemmick's "portable property" will be found in children who have never had any property. The "sanction" for them is the "copper," a fairly popular deity. I once in a Westminster slum stumbled on twenty children, none of them over twelve or thirteen, who were dancing and singing with great heartiness and intense enjoyment. Their song was:—

"'Ow! Mr. Copper, don't tike me,
I've a wife and famerlee."

"'Ow many children 'ave yer got?"
"Five-and-twenty mike the lot!"

This for Manchester would have been a little frivolous. My children are dour and earnest. The Catholic priests do much for those of their own flock within my jurisdiction.

I was walking through Soho one summer afternoon

in a white hat, "my custom always in an afternoon," and was emerging from a back street when there passed me, first, a lively cricket ball, and then a child in the shortest of shorts, three-quarters of a flannel shirt, and dirty sand-shoes. Coming into the open space, I observed that all the cricketers, including the only batsman, were shouting "Johnny Walker." This I thought was addressed to the infant who, as if he had been at Eton, "pursued the flying ball." Then it was borne in upon me that the words were addressed to myself. Considering myself, as Dr. Johnson did, to be a polite man, I bowed profoundly and took off my hat, waving it to my knee. They cheered loudly. Being susceptible to public recognition, I again gracefully bowed my acknowledgments, threw them all my coppers to scramble for, and drew off in good order. I wish these "children of the gutter" did not make me feel inclined to cry when I see them.

The jurisdiction of Quarter Sessions and Courts of Summary Jurisdiction has been extended in our English piece-meal fashion, with anomalous results. A Recorder can try a "long firm" conspiracy to defraud which involves tens of thousands of pounds and takes two or three days to hear, but he cannot try any case of forgery. Yet forgery cases are simplicity itself compared with a case of conspiracy with, say, four prisoners and differing evidence against each. The modern legislation as to offences against children reserves very often the trial of such cases to High Court Judges. So that in some instances if a girl's birthday were on a Thursday, a Recorder could try an offence against her if it was committed on Friday, but not if it was committed on Wednesday! The Post Office and Inland Revenue Authorities try all their prosecutions

at Assizes. Most of them could properly be tried at Quarter Sessions. In the first place many of the prisoners plead guilty, and those who do not are nearly always convicted. The machinery of these great offices is so complete that the risk of miscarriage is infinitesimal. And either a wrong conviction or an inappropriate sentence can be corrected in the Court of Criminal Appeal.

Quarter Sessions could safely try at least one-third of the cases now committed to Assizes.

The Court of Criminal Appeal is itself a product of recent years. The prisoner would be hard to please who did not think that this Court and the Home Office between them give him a fair run for his money. One great advantage of this Court is that to some extent it can standardise sentences. The old-fashioned magistrate who gave six months for all thefts, nine months for all burglaries, and so forth, was no doubt too *borne* in his views. But it is astonishing what strange sentences are sometimes imposed, and this Court can alter such sentences in either direction. The Court has been greatly abused. Countless criminals appeal, and under the cumbrous machinery of the Statute all the evidence taken at the trial is transcribed in several copies for the use of Judges and counsel. I have known cases in which a hopeless appeal has cost the country a three-figure bill for transcripts alone. It is difficult to say that a man tried for his life should not give himself one last chance, but in other cases the privilege is unduly abused—and the time of one Judge, if not three, is unfairly cut to waste.

Another innovation of recent growth is the presence on juries of women. It seems to me to work reasonably well. It is, I am sure, of great value to women to learn something about crime and the way the law works ;

and as a rule they are interested in the cases they try. Oddly enough, their greatest value is found in the trial of sexual offences. I have often asked women jurors to help to try cases in which everything was necessarily very outspoken, and this on the ground that they would be better judges than any man of the truth of what girls might say. I have only once or twice known a woman prefer to leave the box. Indeed, when once a proper vocabulary has been provided, indecency disappears, and I believe that men and women get through this necessary service to the State without distress to themselves and with great advantage to the country. Cases seem to take longer when there are women on the jury. There is a class of case, which lasts an hour or two, which men dispose of promptly. But women seem to want to talk it over and hear other views, so that they often go out to consider their verdict. The men never object to this, as they can smoke in the jury-room. But we are often well into the next case before they come back with an obvious verdict. Women are less willing than men to find a man guilty, and inclined to be hard on a woman, especially if she is good-looking. They seem to have a curious difficulty in accepting the evidence of a constable. Perhaps it seems too good to be true. This is a little hard on the policeman, who has not only got the prisoner to talk about the case, but also put it down in his pocket-book. When policemen lie, they generally do it so clumsily that they betray themselves. I have noticed that the unmarried woman is often too nervous to do more than agree with the majority; and this is often useful. But I do not want a better jurymen than a middle-aged married woman who keeps a stall in Shude Hill Market, Manchester. She earns her living,

she understands figures, she has to deal with cheats herself, and is not in the least afraid of what the men say. She knows by instinct whether a man is honest and whether a girl is virtuous.

Two further changes in Criminal Law are noticeable ; the right of the prisoner to give evidence himself, and the Poor Prisoners' Defence Act. Under the Act any prisoner who has disclosed a feasible defence and has no money can get counsel and solicitor to defend him without paying the fees. This power of assigning counsel to prisoners should in my view be widely used. - The prisoner is not obliged to give evidence, and counsel cannot comment on the fact that he has not gone into the box. But the Judge can, and it is now usual for Judges, Records and Chairmen to point out, with more or less emphasis, that there is one person who knows a good deal which the jury would like to know, and that person is the prisoner. Thus it is now practically imperative for a prisoner charged with a serious offence to go into the box. Unless he has the assistance of counsel, he is greatly hampered. We must assume that he is guilty, and that the question is whether the case can be proved. The first thing an experienced criminal does is to ask that all the witnesses may be out of court. By doing it he has given himself away. Some juryman at once thinks, " Why should this prisoner know anything about witnesses going out of court? He must have been in the dock before." Now if once a jury suspect that a prisoner has previously been in trouble, his stock goes down at least 30 per cent. I like to ask the undefended prisoner if he would prefer the witnesses to be out of court. Moreover, the prisoner defending himself has to cross-examine, and in so doing gets flurried or excited, or out of temper,

so that when he comes to tell his own story in the box he may be tired, and out of spirits, and therefore ineffective. When counsel defend a "poor prisoner," the prisoner can sit in the dock quietly and prepare what he wants to say, and the jury will pay much more attention to a man they hear for the first time than to a man who has wasted their morning in trying to get his opponents to agree with him, or in telling them that they are all liars.

It is very rarely that a prisoner can make anything of his own case, but I remember one such case. I could not give him counsel, because there seemed no defence. When I had told the witnesses to go out of Court he first thanked me, and then launched his frail bark. He asked a few questions so brightly, and accepted the most damning answers so pleasantly, that the jury fell in love with him. The case was quite simple. A large Cheshire cheese was missed from a railway lorry standing at the warehouse of one of the great railways. Shortly afterwards two of their carters happened to be in one of the stables, and one of them looked through a crack in the wall which faced an open space. In this space were a number of men, including the prisoner, and also a Cheshire cheese. The onlooker was impelled to call out, "Where did you get that cheese?" The gang were startled, looked around, could not decide where the voice came from ("not from heaven," the prisoner suggested in cross-examination), and were about to depart, when the second carter insisted on taking his turn at the aperture and repeated the question. This time the sound was traced, and the prisoner, coming to the aperture, invited the voice to come outside. He added as an inducement that, if the voice came, he would knock his bloody face in, speaking

no doubt proleptically. Two or three hours afterwards the prisoner was arrested. The policeman who made the arrest said that the prisoner then had a cheese in his possession. I advised the prisoner not to cross-examine this witness. He took my advice. This closed the case for the prosecution, and I pointed out to the jury that there was no evidence to show what sort of a cheese the prisoner had in his possession when arrested. "It might," I said, "have been a large Cheshire cheese or a small Camembert. It might even have been a crimson—or, in the prisoner's language, a ruddy—Dutch cheese." On this, the jury properly and delightedly acquitted the prisoner.

The railway people were not going to take this lying down. They promptly asked for another jury, and announced that they would try the prisoner on a second indictment. The second jury had, of course, heard the first trial as waiting jurymen. In this second case a friend of the prisoner's had seen a dog-cart standing outside a public-house, and had thought fit to get into the cart and drive away.¹ This friend, meeting the prisoner, asked him if he knew any place where the horse and trap could be disposed of. The prisoner knew of several such places, jumped into the dog-cart, guided his friend to a suitable receiver, took a modest share of the profits, and did nothing more in the matter till he was arrested. Before me he was charged with receiving the horse and trap, knowing

¹ History repeats itself. "I always feared Billy's illegitimate pursuits would lead him into trouble. 'Master Bowker,' he said to me one day, 'do you want an 'oss cheap?' 'Where did you get him, Billy?' said I. 'Found him, master,' said he. 'As I was coming home on foot from Chiswick, I sees a gig and 'oss standing all alone in Chiswick Lane—says I, "Billy my boy, you may as well ride as walk"—so I driv it home, and now the body o' the gig's in the black ditch, the wheels are on my knacker-cart, and I've hogged the 'oss's mane and cut his tail, so that his own master wouldn't know him.'" (*William Bowker to M.F.H. John Jorrocks, re W. Slender, badger baiter, dead.*)

them to have been stolen, and this was the only charge. So the prisoner, being now in good heart, with my assistance, soon satisfied the jury that the horse and trap had never passed out of the possession of the original thief, or into his possession. To one witness he suggested that it would be more accurate to say that the trap received him than that he received the trap. So he was acquitted again.

I felt after this that I had earned the right to tell the prisoner that I thought, with his abilities, he could earn a good living if he would keep straight. He smiled in his attractive way, and in his pleasant voice said that, as he felt indebted to me, he would "perhaps try it"; "for a change," he added, with another smile over his shoulder, as he swung gracefully out of the dock. Though it is three years since these trials took place, I am bound to say I have not seen him again. I could almost wish I had. The railway have secured convictions in all their subsequent cases before me. This trial may illustrate how difficult it is to give appropriate sentences to different criminals, and lay friends sometimes do not understand where the difficulties lie. I think in this case if the man had been convicted on either charge, I should have bound him over, notwithstanding his bad record. If I had not done so, I should have sentenced him to twelve months' hard labour. Which would have been right?

One of my Commissionerships took me to the Welsh Circuits, which brought me into touch with some fine scenery and some kindly circuiteers. At one town I tried a case which took us back a couple of centuries. A widow of some means lived with an unmarried daughter and son near a country town. A cousin of hers had married a miner, who earned heavy

wages. One Christmas eve the miner, his wife, his two sons, a nephew or grandson, and their young servant, descended on the widow's house. They all stayed there till the end of the following February. It appeared that the servant girl had a claim to about £1,600 in a Probate suit. This suit was expected to end shortly, but in the meantime money was needed to carry on the proceedings, and lenders to the future heiress would be repaid with interest at the rate of one shilling in the pound. Thus the sooner the result was reached, the better for the lenders. The widow and her daughter and son all found money amounting to some hundreds of pounds, the landlady of the local hotel found board and lodgings for two of the men, and either she or a local garage provided a large motor. The Probate action, oddly enough, was pending in the Carmarthen County Court, which has never on any other occasion had any jurisdiction in Probate matters. At frequent intervals the grandson drove some of the party to consult the various advisers of the claimant. These shadowy advisers were widely scattered, but all lived in pleasant places, Tenby, Aberystwith, and even the neighbourhood of Snowdon. With regard to one, who was a real solicitor, it was stated to the widow that he had made away with moneys entrusted to him for the litigation, which had to be replaced at once. In the witness box he said that he had known the claimant's father, who was a servant of one of his clients ; beyond this his knowledge did not go. The persons consulted in the case included dignitaries of position. The Earl of Birkenhead, Lord Tredegar and a mysterious Judge Golly were named. When Lord Birkenhead was consulted, it was necessary that £35 should be provided ; nor could Judge Golly be seen for nothing.

For there was no County Court Judge of that name in Wales, and the claimant's friends had to seek him afar.¹

The security for repayment of loans was unusual. The brother of the claimant—who was in fact a grocer's apprentice a few miles away—was represented to be a young gentleman of fortune who had placed in an envelope bank-notes to the value of (I think) £500, and handed the envelope to the miner. When the claim was admitted in Court, the miner was to open the envelope and distribute the notes to lenders. On one occasion, when the widow suggested that the proceedings seemed to drag, she was driven into Carmarthen, where real Assizes were going on before a High Court Judge. They stopped outside the Court, the widow was left in the car, and her companions went in, returning presently to say "that they had had an interview with the County Court Probate Judge, and all was satisfactory." At the end of two months the end came. The wife came to the widow, saying they had all been deceived by the servant girl, and that there was no estate or Probate action or Judge Golly, or even bank-notes in the envelope. The envelope was produced in Court, and the pieces of blank paper with which it was stuffed. I asked the trustee of this fund, when he gave evidence, whether he ever crumpled the envelope to see whether the bank-notes crackled. He said, No. The envelope was a common envelope and not sealed, but he had never thought it his business to open it, although he shared with Lord Tredegar and Lord Penrhyn the responsibility of the trusteeship of the girl's fortune. At the trial the girl pleaded guilty ;

¹ Long before the trial finished, Judge Golly had petered out. He was admittedly a figment, and the view rather was that a person who believed in his existence deserved to lose money.

the others were all convicted. Their defence was that they, like other people, had been taken in by the girl, and believed her story. She, beyond pleading guilty throughout, kept her mouth shut, and gave no information to any one.

Another case had all the simplicity of a pastoral play. I read in the depositions that three men went up into a mountain to see a cricket match. This "mountain" was a high plain above their village. As they were going to a cricket match, they took with them a gun. Having a gun, and seeing a bird, they shot at the bird. They missed the bird, and the shot pierced the brain of a sheep which was feeding in the neighbourhood. At this point in the depositions a little daylight became visible. The sheep was separated from its head and fleece, which were carefully buried. The flesh was carried down into the village in the dusk. The police were very prompt, and raided the houses of the three men the next morning, finding mutton in two of them. On the trial, two were convicted, and the third quite properly acquitted. I forget why. This case came from Montgomery, where sheep-stealing is a very serious offence, for the simple reason that on the wide upland pastures the sheep have to be left to roam about at will.

It is perhaps wise for those who are much occupied with administering the Criminal Law to carry in their memories cases such as those which I have just been relating. Unless a man can obtain some relief by noticing traits of character, peculiarities of disposition and oddities of behaviour, he may find his work depressing and monotonous. In the vast majority of criminal cases the facts are dull and ugly, and in many instances are sad without being exciting. There is no great

pleasure in trying a man who under stress of circumstances has committed a clumsy fraud, lost his position, and brought his family to pauperism, or in sending a lad of eighteen to prison for the first time, or giving another term of penal servitude to a man who is growing old in crime. But I do not think the most confirmed optimist, with any real experience of criminals, could honestly say that there are not a great number of really bad men and wicked women in the world. And so long as there are such people in the world, they must be handled with firmness, whatever their "heredity" or their "environment" may have been.

There is much less crime in England than there was fifty years ago. Everyone knows why crimes of violence have diminished. It is because there is less drink. A Virginian told me in America last year that the capitalists there would never give up prohibition; so much greater was the present production of their workmen. He added that unless we followed their example, they would drive us out of the world's markets. However, it is impossible so early to decide the value of prohibition. We are, in fact, pulling down prisons in England.

I have once sentenced a man to death. The case was simple and tragic. A father, a mother, and a son had finished breakfast. The father was shaving, the mother cleaning the grate, and the son sitting at the table. Suddenly the mother said something, on which the father said he would finish all this, or some such phrase, and cut her throat with his razor. He then tried to kill himself. At the trial the jury seemed to endeavour to avoid the inevitable, and I refused to accept at least two contradictory verdicts. In this, the Court of Criminal Appeal subsequently held that I was right.

There were three women on the jury, two of whom seemed overwhelmed by their position ; the third, if appearances meant anything, was a model for the men. She sat very pale, with compressed lips, and evidently knew what duty meant. The jury at last found the prisoner guilty, with a strong recommendation to mercy. It may readily be supposed that I had considered beforehand what I was to do if the verdict of guilty was found. It was borne in upon me that by chance I was the representative of the State, and should be telling a citizen that his life was forfeit to that State. In such circumstances all personal feeling would be out of place, and it was my business to speak quietly and clearly, and with such dignity as I could command. Whether I should be able to do this, I put out of the question.

• There were hundreds if not thousands of people in the crowded Court, but my memory is that from the moment the verdict was found, I saw the prisoner only, whose eyes stared out at me eagerly. He was not young, and much broken by all that had happened. I said to him, " We have never seen one another before, and it is not likely that we shall ever meet again. I would speak to you, as one man speaking to another—as I would speak to my own brother if he stood where you now stand. Do not place too much reliance upon this recommendation to mercy, but endeavour to prepare to meet your fate with courage and resignation." I then read the sentence of death, which in its simplicity and sternness is worthy of our great nation.

To my astonishment I found that at no moment did I feel any emotion. Any consciousness of my own feelings was absent, and I was a voice pronouncing the sentence of the law. The man was afterwards reprieved,

but at the time I spoke to him I was certain he would be hung. So little do we know of that sub-conscious nature which only a great crisis can disclose to our conscious observation.

I have now written down all that I wish to say about things that I have seen and heard in my journey through an unknown country where the light has been often uncertain and the shadows mysterious. I shall not come this way again, nor do I think that, if I did so, I could make out very much more of the landscape. But I have met many companions whom I cannot but remember, and one who has long kept very near to my side. Nor should I forget that the path has sometimes led through green pastures and sometimes beside the waters of comfort. *Abi, viator*

INDEX

- ABBAYE aux Hommes**, 35
Achilles, Mrs., 242
Agra, 169
Alfred, 5
Arran, 29
Atkinson, Mr. Tindal, 139-40
Auteuil, 205-6

BACON, Vice-Chancellor, 92, 107, 126
Baggallay, Lord Justice, 175
Bannerman, Sir Henry Campbell, 111
Barbault, Mrs., 4
Barnes, Mr. Justice, 191
Baumann, A. A., 73
Beauvais, 209
Beesley, E. S., 86
Bentley, Richard, 50
Berlin, 35
Berlioz, Hector, 21, 157
Bethell, Sir Richard (Lord Westbury), 24-5
Bismarck, 35, 43
Blackburn, Lord, 105, 111-3
Blois, 207
Boito, Arrigo, 156
Bombay, 169
Bonn, 44
Bowen, Lord, 40, 95-8, 108, 121, 172, 184, 193, 245
Bradley, A. C., 21, 60
Brahms, 47
Bramwell, Lord, 110-1, 118, 123, 178-9
Bray, Mr. Justice, 132, 136-7
Brindisi, 169
Brontë, Emily, 67
Brookfield, W. H., 103
Bryce, Lord, 10
Buckland, Frank, 100
Buckstone, 31
Butcher, S. H., 18
Butler, Bishop, 14
Butt, Mr. Justice, 119
Bywater, Professor, 73-4

CAEN, 35
Cairns, Lord Chancellor, 124, 219

Calcutta, 167
Calvert, Charles, 21
Carlisle, 1, 245
Carlyle, Thomas, 82
Carver, Judge, 181
Cave, Mr. Justice, 176-7
Celle, 35
Chambers, Sir Thomas, 106
Charles, Sir Arthur, 176
Chartres, 207, 209
Chippendale, Mr. and Mrs., 31
Chitty, Sir T. Willes, 150-1
Cobet, Professor, 18
Cockburn, Lord Chief Justice, 116
Cohen, Mr. Arthur, 106, 120
Coleridge, Lord, 118-9, 141
Collins, Lord, 213
Conington, Prof., 76
Constance, 43
Corry, 29
Cotton, Rev. Dr., 85
Creighton, Mandell, 85
Cross, Lord, 4

DARJEELING, 168
Darwin, 45
Davey, Lord, 27, 99, 104
Day, Mr. Justice, 139, 183, 222, 224
Delbrück, Professor, 45
Dickens, Charles, 22
Diggle, Dr., 17-18
Disraeli, 29
Don Giovanni, 38
Dresden, 37-38, 40
Dunn, Mr., 4

EDINBURGH, 302
Eldon, Lord, 100, 121-2
Ellis, Robinson, 75
Elmsley, 18
Elton, Sir Arthur, 102
Elton, Charles, Chap. VII., *passim*
Elton, Sir Edward, 101
Epping Forest Case, The, 91
Esher, Lord, 106-7, 175, 182, 184
Espinasse, 29
Evans, Canon T. S., 76

Evreux, 209

Examiner, The, 13

FIELD, Mr. Justice, 129

Fildes, Sir Luke, 6

Freischütz, Der, 41

GASKELL, Mrs., 7, 67

Gifford, Sir Hardinge, 121

Godley, A. D., 70, 74

Goethe, 48

Gordon, General, 33

Gorell, Lord, 213

Goschen, Mr., 43, 55

Grant, Sir William, 124

Green, T. H., 60-62

Guardian, The, 13

Gully, Mr., 145, 180

HAECKEL, Professor, 44

Hallam, Arthur, 54

Hallé, Charles, 21

Halsbury, Lord, 182-3

Hamburg, 35

Hamilton, Sidney, 73-4

Hannen, Lord, 179

Hanover, 35, 37

Harcourt, Sir William, 92

Harrison, Edward, 54-57

Harrison, Frederic, 86

Hart, Sir Robert, 168-9

Hase, Professor, 45

Hastings, Sir Graham, 125

Hawkins, Mr. Vaughan, 174-78

Hayes, Mr. Serjeant, 24-25

Healey, Mr. Chadwick, 130

Heidelberg, 44

Herschell, Lord, 179-80

Higgs, A. H., 57

High Life Below Stairs, 30

Hildesheim, 35, 37

Holker, 123, 215

Hope, Beresford, 96

Hopkinson, Dr., 110

Howe, Mr., 31

Hughes, Tom, 149-150

Hugo, Victor, 80

Hutchins, Charles, 10

Huxley, Leonard, 43

Huxley, Professor, 43-45

INDERWICK, Mr., 188-9

Irving, Sir Henry, 21

JACKSON, Sir Henry, 92

Jeane d'Arc, 210-11

Jefferson, Joseph, 157

Jena, 43-48

Jessel, Sir George, 91, 118, 121-2, 147, 180

Jeune, Sir Francis, 177

Johnson, Master, 136-7

Jowett, 34, 43-4, 54, 59, 63-4, 66-7, 78, 84, 89, 99

KARSLAKE, Sir John, 26

Kaye, Master, 136-7

Kent, A. T., 70-72

Ker, Professor W. P., 46

LAMB, Charles, 9, 21, 78

Lang, Andrew, 95-6

Lee, Bishop Prince, 49

Le Mans, 209

Liddell, Dean, 69

Lindley, Lord Justice, 175, 219

Lisieux, 208

Liszt, Franz, 38, 46, 47

Liverpool, 1, 5

Lockwood, Sir Frank, 101, 106, 188-90

Loreburn, Lord, 188

Lowell, J. R., 149

MACAULAY, Lord, 66

Macnaghten, Lord, 179-80

Malins, Vice-Chancellor, 122, 145

Malten, Fräulein, 39

Manchester, 1, 5, 11, 20

Mapleson, Col., 156

Martin, Mr. Baron, 118, 138

Martineau, James, 82

Mathew, Mr. Justice, 82, 124-5, 176

Maule, Mr. Justice, 27

Meistersinger, Die, 37

Meredith, George, 43, 82

Messiah, The, 22

Mill, John Stuart, 79

Morier, Sir Robert, 43

Morley, John, 82

Moulton, Lord, 104-14, 116, 120, 130, 139-40, 150-1, 154, 182

Mozart, 36, 38-9

Munich, 41-2

Munro, Professor, 70

Murillo, 41

NEATE, Charles, 25

Nettlehip, Lewis, 72

Nilsson, Christine, 156-7

OLIPHANT, Lawrence, 7

Owen, Professor, 44

PARAVICINI, Mr. de, 60

Parke, Mr. Farouk, 76, 111-2

Parr, George, 10
 Pater, W. H., 84, 86
 Patey, Madame, 5
 Pattinson, Mark, 63, 83
 Payne, 27
 Petheram, Sir W., 150, 161
 Phelps, Samuel, 21
 Pickford, W., 181, 214, 217
 Plumer, Sir Thomas, 122
 Pollock, Baron, 133
 Porson, Richard, 18
Preciosa, 41-2
 Preston, 1
Price's Reports, 27
 Pritchard, Mr., 15
 Pusey, Dr., 89

- REEVES, Sims, 5, 22
- Reid, Sir Robert, 189-90
- Renan, 34
- Rigby, Sir John, 176-7, 179-80
- Roberts, John, 10
- Robertson, Mrs. Madge, 30
- Rob Roy*, 1
- Rochefort, Henri, 155
- Rodin, 201-4
- Romilly, Sir Samuel, 121-2
- Rosenkavalier*, 39, 235
- Roupell, Mr., 141
- Rubens, 40-41
- Russell, Sir Charles, 7, 145
- Rutherford, Dr., 18

SALVINI, 158
 Sanders, T. H., 95-7
 Santley, Charles, 5
 Saxony, 35
 Scott, Sir W., 73
 Sedley, Sir Charles, 26
 Selborne, Lord, 118
Shce, Mr. Henry, 213-5, 245
She Swoops to Conquer, 31
 Shilleto, Mr., 76-7
 Sievers, Professor, 45
Sistine Madonna, The, 40
 Smith, A. L., 119, 123, 182
 Smith, H. J. S., 60-61
 Stanley, Dean, 66-67

Stephen, Mr. Justice, 218
 Strauss, Richard, 39
 Stubbs, Bishop, 35
 Swinburne, A. C., 64-5
 Sybel, Von, 57

TANN, 227
 Tennyson, Lord, 64-5, 102-3, 158
 Tenterden, Lord, 213
 Tietjens, Madame, 5, 22
 Tours, 207-8
 Trebelli, Mme., 5, 156-7
 Trevelyan, W., 93-4
 Trevethin, Lord, 220
 Turin, 185-6

VAUGHAN-WILLIAMS, Lord Justice,
 122, 135
 Vienna, 233-5
 Voltaire, 6

WAGNER, 37
 Walker, F. W., 11, 12, 19, 49, 54
 Walton, Lawson, 101, 188
 Walton, Mr. Joseph, 181
 Warrington, 1, 2, 4-9
 Waterhouse, Mr. E., 58
 Watson, Lord, 109-10
 Waugh, Edwin, 2
 Webb, Sir Aston, 58
 Weber, 41-2
 Webster, Sir Richard, 174, 178, 182
 Weimar, 48
 White, Mr. Meadows, 150, 152
 Whitestaunton Manor, 95-7
 Wickens, Vice-Chancellor, 99
 Willes, Mr. Justice, 23-6, 176
 Wills, Mr. Alfred, 176
 Wilson, J. M., 85-6
 Wilson-Patten, Col. (Lord Winmar-
 leigh), 28
 Wise, Pastor George, 238-241
 Witt, J. G., 181-3
 Woods, Mr. Harry, 6
 Wouwerman, 40
 Wright, Mr. Justice, 88, 95, 109, 138
 YOUNG, Rev. Julian, 103



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